



IOWA ADMINISTRATIVE BULLETIN

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November 15, 2023

NUMBER 10
Pages 3257 to 3338

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

JACK EWING, Administrative Code Editor
Publications Editing Office (Administrative Code)

Telephone: 515.281.6048
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Email: Jack.Ewing@legis.iowa.gov
Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, paragraph, subparagraph, or numbered paragraph).

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rulemaking 2023

NOTICE† SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 21 '22	Jan. 11 '23	Jan. 31 '23	Feb. 15 '23	Feb. 17 '23	Mar. 8 '23	Apr. 12 '23	July 10 '23
Jan. 4	Jan. 25	Feb. 14	Mar. 1	Mar. 3	Mar. 22	Apr. 26	July 24
Jan. 20	Feb. 8	Feb. 28	Mar. 15	Mar. 17	Apr. 5	May 10	Aug. 7
Feb. 3	Feb. 22	Mar. 14	Mar. 29	Mar. 31	Apr. 19	May 24	Aug. 21
Feb. 17	Mar. 8	Mar. 28	Apr. 12	Apr. 14	May 3	June 7	Sep. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	Apr. 28	May 17	June 21	Sep. 18
Mar. 17	Apr. 5	Apr. 25	May 10	**May 10**	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	May 26	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 9	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	**June 21**	July 12	Aug. 16	Nov. 13
May 10	May 31	June 20	July 5	July 7	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	July 21	Aug. 9	Sep. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 4	Aug. 23	Sep. 27	Dec. 25
June 21	July 12	Aug. 1	Aug. 16	**Aug. 16**	Sep. 6	Oct. 11	Jan. 8 '24
July 7	July 26	Aug. 15	Aug. 30	Sep. 1	Sep. 20	Oct. 25	Jan. 22 '24
July 21	Aug. 9	Aug. 29	Sep. 13	Sep. 15	Oct. 4	Nov. 8	Feb. 5 '24
Aug. 4	Aug. 23	Sep. 12	Sep. 27	Sep. 29	Oct. 18	Nov. 22	Feb. 19 '24
Aug. 16	Sep. 6	Sep. 26	Oct. 11	Oct. 13	Nov. 1	Dec. 6	Mar. 4 '24
Sep. 1	Sep. 20	Oct. 10	Oct. 25	**Oct. 25**	Nov. 15	Dec. 20	Mar. 18 '24
Sep. 15	Oct. 4	Oct. 24	Nov. 8	**Nov. 8**	Nov. 29	Jan. 3 '24	Apr. 1 '24
Sep. 29	Oct. 18	Nov. 7	Nov. 22	**Nov. 22**	Dec. 13	Jan. 17 '24	Apr. 15 '24
Oct. 13	Nov. 1	Nov. 21	Dec. 6	**Dec. 6**	Dec. 27	Jan. 31 '24	Apr. 29 '24
Oct. 25	Nov. 15	Dec. 5	Dec. 20	**Dec. 20**	Jan. 10 '24	Feb. 14 '24	May 13 '24
Nov. 8	Nov. 29	Dec. 19	Jan. 3 '24	**Jan. 3 '24**	Jan. 24 '24	Feb. 28 '24	May 27 '24
Nov. 22	Dec. 13	Jan. 2 '24	Jan. 17 '24	Jan. 19 '24	Feb. 7 '24	Mar. 13 '24	June 10 '24
Dec. 6	Dec. 27	Jan. 16 '24	Jan. 31 '24	Feb. 2 '24	Feb. 21 '24	Mar. 27 '24	June 24 '24
Dec. 20	Jan. 10 '24	Jan. 30 '24	Feb. 14 '24	Feb. 16 '24	Mar. 6 '24	Apr. 10 '24	July 8 '24

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
12	Wednesday, November 22, 2023	December 13, 2023
13	Wednesday, December 6, 2023	December 27, 2023
14	Wednesday, December 20, 2023	January 10, 2024

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

****Note change of filing deadline****

ACCOUNTANCY EXAMINING BOARD[193A]

Definitions, ch 1; organization and administration, ch 2; certification of CPAs, ch 3; licensure of LPAs, ch 4; licensure status and renewal of certificates and licenses, ch 5; attest and compilation services, ch 6; certified public accounting firms, ch 7; licensed public accounting firms, ch 8; reciprocity and substantial equivalency, ch 9; continuing education, ch 10; peer review, ch 11; fees, ch 12; rules of professional ethics and conduct, ch 13; disciplinary authority and grounds for discipline, ch 14; disciplinary investigations, ch 15; disciplinary proceedings, ch 16; enforcement proceedings against nonlicensees, ch 17; licensees' duty to report, ch 18; practice privilege for out-of-state certified public accountants, ch 20; practice privilege for out-of-state certified public accountant firms, ch 21
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068#
More phone numbers:
tel.meet/bfq-qaeb-nwu?pin=7324359836726

November 21, 2023
3:40 p.m.

ARCHITECTURAL EXAMINING BOARD[193B]

Description of organization, ch 1; licensure, ch 2; continuing education, ch 3; rules of conduct, ch 4; exceptions, ch 5; disciplinary action against licensees, ch 6; disciplinary action—unlicensed practice, ch 7
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
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meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068#
More phone numbers:
tel.meet/bfq-qaeb-nwu?pin=7324359836726

November 21, 2023
3:30 p.m.

BANKING DIVISION[187]

Required fees, 2.19
IAB 11/15/23
Regulatory Analysis

Iowa Division of Banking
200 East Grand Ave., Ste. 300
Des Moines, Iowa

December 13, 2023
9 a.m.

CIVIL RIGHTS COMMISSION[161]

Complaint process, ch 3; discrimination in employment, ch 8
IAB 11/15/23
Regulatory Analyses

Grimes State Office Bldg.
400 E. 14th St.
Des Moines, Iowa

December 5, 2023
10 a.m.

ECONOMIC DEVELOPMENT AUTHORITY[261]

Renewable chemical production tax credit program, ch 81 IAB 11/1/23 ARC 7105C	1963 Bell Ave. Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review/	November 28, 2023 9 to 9:30 a.m.
	1963 Bell Ave. Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review/	December 4, 2023 1:30 to 2 p.m.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Administration, ch 1; fees and charges, ch 2; application and renewal process, ch 3; engineering licensure, ch 4; land surveying licensure, ch 5; seal and certificate of responsibility, ch 6; professional development, ch 7; professional conduct of licensees, ch 8; complaints, investigations and disciplinary action, ch 9; peer review, ch 10; minimum standards for property surveys, ch 11; minimum standards for U.S. public land survey corner certificates, ch 12; civil penalties for unlicensed practice, ch 13 IAB 11/1/23 Regulatory Analyses	6200 Park Ave. Des Moines, Iowa Video/conference call: meet.google.com/bfq-qaeb-nwu Or dial: 1.402.921.2210 PIN: 301 728 068# More phone numbers: tel.meet/bfq-qaeb-nwu?pin=7324359836726	November 21, 2023 4 p.m.
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EXECUTIVE COUNCIL[361]

Group insurance for state employees; deferred compensation program; health maintenance organizations, adopt ch 1; rescind chs 5, 6 IAB 11/1/23 Regulatory Analysis	Room G9, Iowa State Capitol 1007 East Grand Ave. Des Moines, Iowa	November 27, 2023 11:30 a.m.
Contingent fund—disaster aid; disaster contingency fund, adopt ch 2; rescind ch 7 IAB 11/1/23 Regulatory Analysis	Room G9, Iowa State Capitol 1007 East Grand Ave. Des Moines, Iowa	November 27, 2023 11:45 a.m.
Inheritance tax payments, adopt ch 3; rescind ch 11 IAB 11/1/23 Regulatory Analysis	Room G9, Iowa State Capitol 1007 East Grand Ave. Des Moines, Iowa	November 27, 2023 12 noon
Disbursement of money from civil reparations trust fund, adopt ch 4; rescind ch 12 IAB 11/1/23 Regulatory Analysis	Room G9, Iowa State Capitol 1007 East Grand Ave. Des Moines, Iowa	November 27, 2023 12:15 p.m.

HUMAN SERVICES DEPARTMENT[441]

Uniform rules on agency procedure, chs 1, 3 to 6, 9, 16; payment of small claims, ch 8; collection of debt, ch 11; program evaluation, ch 13; fiscal oversight of the early childhood Iowa initiative, ch 122; adoption services, ch 200; subsidized adoptions, ch 201; Iowa adoption exchange, ch 203; subsidized guardianship program, ch 204
IAB 11/1/23

Regulatory Analyses

Video/conference call:
meet.google.com/nkg-jzin-yvp

November 28, 2023
10 a.m.

INTERIOR DESIGN EXAMINING BOARD[193G]

Professional conduct, ch 4
IAB 11/1/23
Regulatory Analysis

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/vic-ewjz-qdz
Or dial: 1.336.515.0134
PIN: 836 758 241#
More phone numbers:
tel.meet/vic-ewjz-qdz?pin=5875932671903

November 21, 2023
9:20 a.m.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Contribution rates; SECURE 2.0 Act of 2022; processing fee; alignment, 4.6, 5.2(6)"g," 11.2(4)"a," 11.6(1), 11.7(6)
IAB 11/15/23
Regulatory Analysis

IPERS Boardroom
Via video/conference call:
teams.microsoft.com/l/meetup-join/19%3ameeting_M2U5NWVjN2YtMDA_INC00ZGE1LWFjMDItOWYyOGJkOTg0MDIz%40thread.v2/0?context=%7b%22Tid%22%3a%22af5fa057-d92d-4799-9857-ab5d6d03669f%22%2c%22Oid%22%3a%220b57ae51-efdf-4a96-95e6-f5c76086fd0e%22%7d
Meeting ID: 237 603 473 172
Passcode: fSnADd

December 6, 2023
1 to 2 p.m.

MANAGEMENT DEPARTMENT[541]

Organization and operation, ch 1; petitions for rulemaking, ch 5; declaratory orders, ch 6; Agency procedure for rulemaking, ch 7; public records and fair information practices, ch 8; grants enterprise management system, ch 11; DAS customer council, ch 12; suspension and reinstatement of state funds, adopt ch 13; rescind ch 16
IAB 11/15/23
ARC 7113C to ARC 7120C

State Capitol, Room G14
1007 E. Grand Ave.
Des Moines, Iowa

December 6, 2023
1 to 2 p.m.

State Capitol, Room G14
1007 E. Grand Ave.
Des Moines, Iowa

December 8, 2023
1 to 2 p.m.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Organization and operation, ch 1; allocation of disciplinary fees and costs, ch 2; vendor appeals, ch 3; social security numbers and proof of legal presence, ch 4; investigatory subpoenas, ch 6; contested cases, ch 7; sales and leases of goods and services, ch 11; impaired licensee review committees, ch 12; licensure by verification or work experience, ch 14; use of criminal convictions in eligibility determinations and initial licensing decisions, ch 15
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068#
More phone numbers:
[tel.meet/bfq-qaeb-nwu?pin=7324359836726](tel:meet/bfq-qaeb-nwu?pin=7324359836726)

November 21, 2023
3:10 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Board administrative processes, ch 4; fees, ch 5; complaints and investigations, ch 9; discipline, ch 13; use of criminal convictions in eligibility determinations and initial licensing decisions, ch 14; Iowa professionals review committee, ch 16; licensure by verification and of applicants with work experience, ch 19
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Phone numbers:
[tel.meet/bfq-qaeb-nwu?pin=7324359836726](tel:meet/bfq-qaeb-nwu?pin=7324359836726)

November 21, 2023
9 a.m.

Licensure of marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts, ch 31; continuing education for marital and family therapists and mental health counselors, ch 32; discipline for marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts, ch 33
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068#

November 21, 2023
9:40 to 10 a.m.

Licensure of, colleges for, practice of, continuing education for, and discipline for chiropractic physicians, chs 41 to 45
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068#

November 21, 2023
12:30 p.m.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Licensure of barbers, cosmetologists, electrologists, estheticians, nail technologists, and instructors of barbering and cosmetology arts and sciences, ch 60; licensure of establishments and schools of barbering and cosmetology arts and sciences, ch 61; infection control for establishments and schools of barbering and cosmetology arts and sciences, ch 63; continuing education for barbering and cosmetology arts and sciences, ch 64; discipline for barbering and cosmetology arts and sciences licensees, instructors, establishments, and schools, ch 65
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Phone numbers:
[tel.meet/bfq-qaeb-nwu?pin=7324359836726](tel:meet/bfq-qaeb-nwu?pin=7324359836726)

November 21, 2023
1:50 to 2:10 p.m.

Licensure of dietitians, ch 81; continuing education for dietitians, ch 82; discipline for dietitians, ch 83
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Phone numbers:
[tel.meet/bfq-qaeb-nwu?pin=7324359836726](tel:meet/bfq-qaeb-nwu?pin=7324359836726)

November 21, 2023
2:10 to 2:30 p.m.

Practice of funeral directors, funeral establishments, and cremation establishments, ch 100; licensure of funeral directors, funeral establishments, and cremation establishments, ch 101; continuing education for funeral directors, ch 102; enforcement proceedings against nonlicensees; disciplinary proceedings, rescind ch 103; adopt ch 104; enforcement proceedings against nonlicensees, ch 105
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068#

November 21, 2023
1:30 p.m.

Licensure of hearing aid specialists, ch 121; continuing education for hearing aid specialists, ch 122; practice of hearing aid dispensing, ch 123; discipline for hearing aid specialists, ch 124
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068#

November 21, 2023
10:50 a.m.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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|--|--|--|
| <p>Licensure of massage therapists, ch 131; massage therapy education curriculum, ch 132; continuing education for massage therapists, ch 133; discipline for massage therapists, ch 134
IAB 11/1/23
Regulatory Analyses</p> | <p>6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/vic-ewjz-qdz
Or dial: 1.336.515.0134
PIN: 836 758 241#</p> | <p>November 21, 2023
9 a.m.</p> |
| <p>Licensure of nursing home administrators, ch 141; continuing education for nursing home administration, ch 143; discipline for nursing home administrators, ch 144
IAB 11/1/23
Regulatory Analyses</p> | <p>6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068#</p> | <p>November 21, 2023
11:30 a.m.</p> |
| <p>Licensure of optometrists, ch 180; continuing education for optometrists, ch 181; practice of optometrists, ch 182; discipline for optometrists, ch 183
IAB 11/1/23
Regulatory Analyses</p> | <p>6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068#</p> | <p>November 21, 2023
11:50 a.m.</p> |
| <p>Licensure of physical therapists and physical therapist assistants, ch 200; practice of physical therapists and physical therapist assistants, ch 201; discipline for physical therapists and physical therapist assistants, ch 202; continuing education for physical therapists and physical therapist assistants, ch 203; licensure of occupational therapists and occupational therapy assistants, ch 206; continuing education for occupational therapists and occupational therapy assistants, ch 207; practice of occupational therapists and occupational therapy assistants, ch 208; discipline for occupational therapists and occupational therapy assistants, ch 209
IAB 11/1/23
Regulatory Analyses</p> | <p>6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Phone numbers:
tel.meet/bfq-qaeb-nwu?pin=7324359836726</p> | <p>November 21, 2023
2:30 to 2:50 p.m.</p> |

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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| Licensure of podiatrists, ch 220; licensure of orthotists, prosthetists, and pedorthists, ch 221; continuing education for podiatrists, ch 222; practice of podiatry, ch 223; discipline for podiatrists, orthotists, pedorthists, and prosthetists, ch 224; continuing education for orthotists, prosthetists, and pedorthists, ch 225
IAB 11/1/23
Regulatory Analyses | 6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068# | November 21, 2023
10:20 to 10:40 a.m. |
| Licensure of psychologists, ch 240; continuing education for psychologists, ch 241; discipline for psychologists, ch 242; practice of psychology, ch 243; prescribing psychologists, ch 244
IAB 11/1/23
Regulatory Analyses | 6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068# | November 21, 2023
9:20 to 9:40 a.m. |
| Licensure of respiratory care practitioners, polysomnographic technologists, and respiratory care and polysomnography practitioners, ch 261; continuing education for respiratory care practitioners and polysomnographic technologists, ch 262; practice of respiratory care practitioners and polysomnographic technologists, ch 265
IAB 11/1/23
Regulatory Analyses | 6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: (US) 1.402.921.2210
PIN: 301 728 068# | November 21, 2023
12:50 p.m. |
| Licensure of speech pathologists and audiologists, ch 300; practice of speech pathologists and audiologists, ch 301; continuing education for speech pathologists and audiologists, ch 303; discipline for speech pathologists and audiologists, ch 304
IAB 11/1/23
Regulatory Analyses | 6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Phone: 1.402.921.2210
PIN: 301 728 068# | November 21, 2023
11:10 a.m. |

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Licensure of athletic trainers, ch 351; continuing education for athletic trainers, ch 352; discipline for athletic trainers, ch 353
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Phone numbers:
[tel.meet/bfq-qaeb-nwu?pin=7324359836726](tel:meet/bfq-qaeb-nwu?pin=7324359836726)

November 21, 2023
2:50 to 3:10 p.m.

Licensure of sign language interpreters and transliterators, ch 361; continuing education for sign language interpreters and transliterators, ch 362; discipline for sign language interpreters and transliterators, ch 363
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu
Or dial: 1.402.921.2210
PIN: 301 728 068#

November 21, 2023
12:10 p.m.

PUBLIC HEALTH DEPARTMENT[641]

Reportable diseases, poisonings and conditions, and quarantine and isolation, ch 1; hepatitis programs, ch 2; immunization and immunization education: persons attending elementary or secondary schools, licensed child care centers or institutions of higher education, ch 7; human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS), ch 11; private well testing, reconstruction, and plugging—grants to counties, ch 24; smokefree air, ch 153; medical cannabidiol program, ch 154; health data, ch 177; nonpayment of state debt, ch 194; emergency medical services—military service, veteran reciprocity, and spouses of active duty service members, ch 196

IAB 11/1/23

Regulatory Analyses

Video/conference call:
meet.google.com/nkg-jzin-yvp

November 28, 2023
10 a.m.

Practice of tattooing, ch 22; backflow prevention assembly tester registration, ch 26; minimum requirements for tanning facilities, ch 46
IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa

November 21, 2023
9:40 a.m.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Plumbing and mechanical systems board—licensee practice, ch 23; plumbing and mechanical systems board—administrative and regulatory authority, ch 27; plumbing and mechanical systems board—licensure fees, ch 28; plumbing and mechanical systems board—application, licensure, and examination, ch 29; continuing education for plumbing and mechanical systems professionals, ch 30; plumbing and mechanical systems board—licensee discipline, ch 32; plumbing and mechanical systems board—contested cases, ch 33; plumbing and mechanical systems board—complaints and investigations, ch 34; plumbing and mechanical systems board—alternative licensure pathways, ch 35; impaired practitioner review committee, ch 193 IAB 11/1/23 Regulatory Analyses	6200 Park Ave. Des Moines, Iowa	November 21, 2023 9:20 a.m.
Certificate of need program, ch 202 IAB 11/1/23 Regulatory Analysis	6200 Park Ave. Des Moines, Iowa	November 21, 2023 8 a.m.
Standards for certificate of need review, ch 203 IAB 11/1/23 Regulatory Analysis	6200 Park Ave. Des Moines, Iowa	November 21, 2023 8 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Fire safe cigarette certification program, ch 61; licensing for commercial explosive contractors and blasters, ch 235; consumer fireworks retail seller licensing and wholesaler registration, ch 265; licensing of fire protection system contractors, ch 275; licensing of fire protection system technicians, ch 276; licensing of alarm system contractors and technicians, ch 277; electrician and electrical contractor licensing program—organization and administration, ch 500; electrician and electrical contractor licensing program—licensing requirements, procedures, and fees, ch 502; electrician and electrical contractor licensing program—complaints and discipline, ch 503; electrician and electrical contractor licensing program—education, ch 505

IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa

November 21, 2023
10 a.m.

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Organization and administration, ch 1; definitions, ch 2; general provisions for examinations, ch 3; associate real estate appraiser, ch 4; certified real estate appraiser, ch 6; disciplinary actions against certified and associate appraisers, ch 7; investigations and disciplinary procedures, ch 8; renewal, expiration and reinstatement of certificates and registrations, retired status, and inactive status, ch 9; reciprocity, ch 10; continuing education, ch 11; fees, ch 12; enforcement proceedings against nonlicensees, ch 16; licensure of persons licensed in other jurisdictions, ch 26

IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa
Video/conference call:
meet.google.com/bfq-qaeb-nwu

November 21, 2023
8:20 to 8:40 a.m.

REAL ESTATE COMMISSION[193E]

Administration, ch 1; definitions, ch 2; broker license, ch 3; salesperson license, ch 4; licensees of other jurisdictions and reciprocity, ch 5; termination and transfer, ch 6; offices and management, ch 7; closing a real estate business, ch 8; fees, ch 9; advertising, ch 10; brokerage agreements and listings, ch 11; disclosure of relationships, ch 12; trust accounts and closings, ch 13; seller property condition disclosure, ch 14; property management, ch 15; prelicense education and continuing education, ch 16; approval of schools, courses and instructors, ch 17; investigations and disciplinary procedures, ch 18; requirements for mandatory errors and omissions insurance, ch 19; time-share filing, ch 20; enforcement proceedings against unlicensed persons, ch 21

IAB 11/1/23

Regulatory Analyses

6200 Park Ave.
Des Moines, Iowa

November 21, 2023
8:40 a.m.

REVENUE DEPARTMENT[701]

Exemption certificates, amend chs 202, 204, adopt ch 209, rescind ch 288; purchases by businesses, ch 210; taxable services, ch 211; governments and nonprofits, exempt sales, taxable and exempt sales determined by method of transaction or usage, adopt chs 212, 285, rescind ch 284; miscellaneous taxable sales, ch 213; events, amusements, and other related activities, ch 216; sales and services related to vehicles, ch 218; sales and use tax on construction activities, ch 219; exemptions primarily of benefit to consumers, ch 220; miscellaneous nontaxable transactions, ch 221; receipts subject to use tax; receipts exempt from use tax; receipts subject to use tax depending on method of transaction, rescind chs 280, 281; adopt ch 282

IAB 11/1/23

Regulatory Analyses

Video/conference call:
meet.google.com/pmv-smfj-zwf
Or dial: 1.413.369.1186
PIN: 243 048 107#

November 21, 2023
9 to 11 a.m.

REVENUE DEPARTMENT[701](cont'd)

Retirement income exclusion,
301.1, 301.5, 302.47, 302.80,
307.1, 307.3(5)
IAB 11/1/23 **ARC 7109C**

Via video/conference call
Contact Kurt Konek
Email: kurt.konek@iowa.gov

November 21, 2023
11 a.m. to 12 noon
(If requested)

UTILITIES DIVISION[199]

Interstate natural gas pipelines and
underground storage, rescind
ch 12
IAB 11/15/23 **ARC 7110C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

December 5, 2023
10:30 a.m. to 12:30 p.m.

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

December 12, 2023
9 to 11 a.m.

Nonutility services—
recordkeeping and cost
allocations, ch 33
IAB 11/15/23 **ARC 7111C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

December 5, 2023
9 to 11 a.m.

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

January 23, 2024
9 to 11 a.m.

Nonutility service, ch 34
IAB 11/15/23 **ARC 7112C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

December 5, 2023
9 to 11 a.m.

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

January 23, 2024
9 to 11 a.m.

**WORKFORCE DEVELOPMENT BOARD AND
WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION[877]**

Regional industry sector
partnerships, 7.25
IAB 11/1/23 **ARC 7107C**

Capitol View Room
1000 E. Grand Ave.
Des Moines, Iowa

November 21, 2023
10 to 11 a.m.

Statewide work-based learning
intermediary network, rescind
ch 31
IAB 11/1/23 **ARC 7108C**

Capitol View Room
1000 E. Grand Ave.
Des Moines, Iowa

November 21, 2023
9 to 10 a.m.

Adult education and literacy
programs, ch 32
IAB 11/1/23
Regulatory Analysis

1000 E. Grand Ave.
Des Moines, Iowa

November 21, 2023
11 a.m.

Iowa vocational rehabilitation
services, ch 33
IAB 11/1/23
Regulatory Analysis

1000 E. Grand Ave.
Des Moines, Iowa

November 21, 2023
12 noon

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
OMBUDSMAN[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Child Advocacy Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]

LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Board[650]
 Medicine Board[653]
 Nursing Board[655]
 Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and Workforce Development Center Administration Division[877]

Building Resilient Infrastructure and Communities (BRIC) 2023

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Building Resilient Infrastructure and Communities (BRIC) Grant for FY 2023</p> <p>Authorized by §203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5133, as implemented by Hazard Mitigation Assistance: Building Resilient Infrastructure and Communities.</p> <p>The BRIC program seeks to reduce damages and the loss of life and property from natural hazards through the development and implementation of mitigation actions.</p>	<ul style="list-style-type: none"> • State Agencies and Local Governments. • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private nonprofit organizations are not eligible to apply as sub-applicants; however, they may request a local government to submit an application for their proposed activity on their behalf. • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>To learn more about the BRIC program, use the following link on FEMA's website: www.fema.gov/grants/mitigation/building-resilient-infrastructure-communities</p> <p>Applicants must complete an application through FEMA's Grants Outcomes System (FEMA GO). Applications must be submitted for State review via EM Grants Pro by February 1, 2024. To learn more about the FEMA GO system, use the following link: go.fema.gov</p> <p>For additional information, please contact:</p> <p>Dusty Pogones 515.344.9049 Steve Oberbroeckling 515.305.1128</p> <p>Iowa Homeland Security and Emergency Management Department 7900 Hickman Road, Ste. 500 Windsor Heights, Iowa 50324</p> <p>FEMA TECHNICAL ASSISTANCE HELPDESK: Phone: 877.611.4700 (toll free) Email: femago@fema.dhs.gov bchelp@fema.dhs.gov</p>	<p>Eligible Project Activities</p> <p>Mitigation projects must focus on natural hazards. Examples include (but not limited to):</p> <ul style="list-style-type: none"> • Capability- and Capacity-Building (C&CB) activities, which enhance the knowledge, skills, expertise, etc., of the current workforce to expand or improve the administration of mitigation assistance. This includes activities in the following sub-categories: building codes activities, partnerships, project scoping, hazard mitigation planning and planning-related activities, and other activities; • Hazard Mitigation Projects (construction)—cost-effective projects designed to increase resilience and public safety; reduce injuries and loss of life; and reduce damage and destruction to property, critical services, facilities, and infrastructure (including natural systems) from a multitude of natural hazards and the effects of climate change; • Acquisition or structural relocation for permanent open space, or elevation of buildings located in a special flood hazard area; • Structural and non-structural retrofitting of existing structures to meet or exceed applicable building codes relative to hazard mitigation; • Hydrologic and hydraulic studies/analyses, engineering studies, and drainage studies for the purpose of project design and feasibility in conjunction with a project; • Protective measures for utilities; water and sanitary sewer systems and/or infrastructure; • Storm water management projects (e.g., culverts, floodgates, retention basins) to reduce or eliminate long-term risk from flood hazards; • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system; and • Construction of tornado safe rooms (tornado and severe wind shelters).

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
			<p data-bbox="961 262 1182 289">Planning Application</p> <p data-bbox="961 315 1377 525">The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p> <p data-bbox="961 556 1230 604">PROJECT TECHNICAL ASSISTANCE:</p> <p data-bbox="961 609 1347 709">Technical assistance for Engineering Feasibility, Benefit-Cost Analysis and Environmental/Historic Preservation compliance is available through FEMA.</p>

Flood Mitigation Assistance (FMA) 2023

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECT
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Flood Mitigation Assistance (FMA) Grant for FY 2023</p> <p>Authorized by Section 1366 of the National Flood Insurance Act of 1968 as amended (Pub. L. No. 90-448) (42 U.S.C. §4104c.).</p> <p>The FMA program seeks to reduce or eliminate the risk of repetitive flood damage to buildings and structures insured under the National Flood Insurance Program (NFIP).</p>	<ul style="list-style-type: none"> • State Agencies and Local Governments. • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private nonprofit organizations are not eligible to apply as sub-applicants; however, they may request a local government to submit an application for their proposed activity on their behalf. • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>To learn more about the FMA program, use the following link on FEMA’s website:</p> <p>www.fema.gov/grants/mitigation/floods</p> <p>Applicants must complete an application through FEMA’s Grants Outcomes System (FEMA GO). Applications must be submitted for State review via EM Grants Pro by February 1, 2024. To learn more about the FEMA GO system, use the following link:</p> <p>go.fema.gov</p> <p>For additional information, please contact:</p> <p>Dusty Pogones 515.344.9049 Steve Oberbroeckling 515.305.1128</p> <p>Iowa Homeland Security and Emergency Management Department 7900 Hickman Road, Ste. 500 Windsor Heights, Iowa 50324</p> <p>FEMA TECHNICAL ASSISTANCE HELPDESK: Phone: 877.611.4700 (toll free) Email: femago@fema.dhs.gov bchelp@fema.dhs.gov</p>	<p>Eligible Project Activities</p> <p>Mitigation projects must focus on natural hazards. Examples include (but not limited to):</p> <ul style="list-style-type: none"> • Capability- and Capacity-Building (C&CB) activities, which enhance the knowledge, skills, expertise, etc., of the current workforce to expand or improve the administration of mitigation assistance. This includes activities in the following sub-categories: building codes activities, partnerships, project scoping, hazard mitigation planning and planning-related activities, and other activities; • Localized flood risk reduction projects (should benefit NFIP insured properties); • Individual flood mitigation projects (should benefit NFIP insured properties); • Mitigation Planning consistent with 44 CFR Part 201 (only for flood hazard); • Property Acquisition and Structural Demolition and Relocation (for NFIP insured properties); • Structural Elevation (for NFIP insured properties); • Dry Flood Proofing (for NFIP insured properties); • Non-structural Retrofitting of Existing Buildings and Facilities (for NFIP insured properties); • Mitigation Reconstruction (for NFIP insured properties). <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be the flood hazard component, a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p> <p>PROJECT TECHNICAL ASSISTANCE: Technical assistance for Engineering Feasibility, Benefit-Cost Analysis and Environmental/Historic Preservation compliance is available through FEMA.</p>

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code rule 187—2.19(17A,524)
“Required Fees”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 524.213

State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, House File 688, and Iowa Code sections 524.303, 524.312, 524.544, 524.802A, 524.1201, 524.1303, 524.1309, 524.1401, 524.1402, 524.1410, 524.1501, 524.1508 and 524.1509

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

December 13, 2023
9 a.m.

Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Division of Banking no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Phone: 515.242.0332
Email: zak.hingst@idob.state.ia.us

Purpose and Summary

The proposed rulemaking would formally adopt the existing required application fees in the Division’s rules regarding corporate applications for banks. This rulemaking sets in rule the Division’s existing fees and fee amounts, which are already available on the Division’s website. This rulemaking is intended to comply with the requirement of 2023 Iowa Acts, House File 688, that all fees that are not described in statute must be adopted by administrative rule.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The cost of these application fees will be borne by banks filing the corporate applications identified in the rulemaking, including applications for new bank offices, mergers, amendments to articles of incorporation, and other corporate applications requiring approval by the Superintendent of Banking.

- Classes of persons that will benefit from the proposed rulemaking:

The proposed rulemaking will benefit banks by setting in rule the applicable application fees for each of the identified applications.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Because the Division's application fees offset the amount the Division collects from banks via quarterly assessments, which is an amount the Legislature specifically authorizes each year in the Administration and Regulation budget, the proposed rulemaking will not increase the Division's total spending authorization. There would, therefore, be no economic or other change to the Division's operations. The Division also does not anticipate any broader economic or other impact since banks are long accustomed to the fee structure that the rulemaking proposes to adopt and these applications are voluntary, meaning that banks that do not seek to undertake any of the covered corporate actions (e.g., merger, establishing/relocating a bank branch, amending articles of incorporation) will incur no costs under the proposed rulemaking.

- Qualitative description of impact:

There is anticipated to be minimal or no impact on banks because the rulemaking proposes to adopt the Division's existing fee structure for corporate applications. The rulemaking therefore preserves the status quo and is anticipated to have no practical impact on Iowa banks.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no anticipated implementation or enforcement costs to the Division associated with this rulemaking because it merely adopts the Division's existing fee structure for corporate applications submitted by Iowa banks.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues since any application fees the Division collects from Iowa banks reduce the amount of the quarterly assessment paid by Iowa banks.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The cost of the proposed rulemaking is that banks have to continue to pay the application fees that the Division currently requires, which reflect the fees the Division has charged for these applications for many years. The benefit of these fees is that they provide clarity and guidance to banks when filing applications and ensure that banks that have filed corporate applications requiring specific time and attention from Division staff bear a fair and proportionate amount of that cost, rather than spreading that cost across all banks, including the large majority that have not filed any corporate applications. The cost of inaction would be lack of guidance for banks about the required fee amounts, and, in the event no fee amounts are adopted, another cost would be that banks that do not file corporate applications would effectively subsidize, via their quarterly assessments, the time and effort the Division spends reviewing the applications it does receive.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The less costly method available would be charging no application fees.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Division has charged application fees for these corporate applications for many years and most recently reviewed the specific fee amounts in 2022. The Division concluded that those 2022 fee amounts remain appropriate.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Because all application fee amounts the Division collects offset the amount of the quarterly assessment charged to all Iowa banks, the Division determined that it is appropriate to charge fees for these applications so that banks that submit applications that require more time and attention from the Division's staff bear a more proportionate share of those costs. The Division adopted the proposed fee amounts because they roughly correlate to the additional workload individual bank applications create for the Division's staff based on salary and other costs to the Division. This means that a bank that

submits a corporate application that requires more time and attention from Division staff bears a fair amount of the cost of reviewing that application, rather than fully spreading that cost across all banks, including those that have not submitted any applications, via the Division's quarterly assessments.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The Division does not anticipate any impact on small business because this rule only applies to corporate applications filed by banks.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** rule 187—2.19(17A,524):

187—2.19(17A,524) Required fees. The following is a schedule of the fees for corporate applications filed by state banks adopted by the superintendent:

Establish a bank office:	\$2,000
Establish a mobile bank office, courier service, or convenience office:	\$2,000
Relocate principal place of business:	\$1,050
Relocate a bank office:	\$1,000
Conversion to a state bank:	\$5,050 + examination fee
Merger:	
Two banks:	\$3,050
More than two banks (for each additional bank):	\$1,500
Bank holding company into state bank:	\$1,550
Voluntary dissolution:	\$5,550
Purchase and assumption of assets and liabilities:	\$3,000
New (de novo) state bank:	\$15,050
Reverse stock split:	\$2,050
Change in bank control:	\$1,000
Failure resolutions:	
Acquisition by de novo group:	\$5,500

Acquisition by existing bank, bank holding company, or experienced group:	\$3,000
Amendment or restatement of articles of incorporation:	
Review and file documents with Secretary of State not in conjunction with a pending application (example: amendments):	\$550
Review and file documents with Secretary of State in conjunction with a conversion to or merger with a national bank or thrift:	\$505
State bank merger into out-of-state bank or national bank:	\$505
Certificate of Good Standing or Proof of Official Records:	\$25

This rule is intended to implement Iowa Code sections 524.213, 524.312, 524.314, 524.802A, 524.1405, 524.1410, 524.1413, 524.1415, 524.1505, 524.1508 and 524.1509.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 161—Chapter 3
“Complaint Process”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 216
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 216

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

December 5, 2023
10 a.m.

Grimes State Office Building
400 East 14th Street
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Civil Rights Commission (ICRC) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jacob Bennington
Iowa Civil Rights Commission
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Email: jacob.bennington@iowa.gov

Purpose and Summary

The purpose of proposed Chapter 3 is to implement the Iowa Civil Rights Act of 1965 (ICRA) by providing parameters and expectations regarding the complaint process for discrimination complaints.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Complainants and respondents, including businesses and state agencies, will bear the costs.
 - Classes of persons that will benefit from the proposed rulemaking:
Iowans in general, including complainants, respondents, and taxpayers, will benefit.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
Both complainants and respondents incur costs regarding the complaint process, including the cost to complete the complaint, questionnaires, and interviews and appearing for hearings. Additionally, if a respondent is found to be in violation of the ICRA, damages can be assessed against the respondent by means of a settlement, an administrative law judge decision, or an ICRC decision.
 - Qualitative description of impact:
Both complainants and respondents are impacted by the complaint process. How the parties interact with the process and the ability to understand the process have shaped the qualitative impact of the civil rights process in Iowa. The current language in Chapter 3 is complex. The proposed language in

this Regulatory Analysis allows for improved readability and accessibility by Iowans while keeping the integrity of the civil rights process.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The costs to the ICRC include staff salaries and costs to process complaints. Other state agencies that engage with the ICRC are reimbursed for the services provided to the ICRC (administrative law judges, human resources, budget/accounting, and Attorney General). Further, if a complaint is filed against another state agency, that named agency would incur costs in responding to the complaint.

- Anticipated effect on state revenues:

The proposed rulemaking is anticipated to have a neutral effect on state revenue because this rulemaking is necessary to effectuate the implementation of the ICRA. Funding is appropriated annually from the General Fund.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Iowa's state motto is: "Our liberties we prize and our rights we will maintain." The implementation of the rules to effectuate the ICRA is to ensure that Iowans' rights are maintained. Therefore, inaction is not possible.

The costs to the State include the staffing, materials, and resources needed to receive, investigate, mediate, conciliate, and determine the merits of complaints of illegal discrimination. The rules utilized to effectuate the ICRA do not increase costs to complainants or respondents, nor do the proposed rules provide overly burdensome documentation requirements for ICRC staff to determine the merits of each complaint. Based on the proposed rules, which effectuate the ICRA, the benefits of ensuring Iowans have the opportunity for redress and justice regarding complaints of illegal discrimination outweigh the costs of only utilizing the language of the ICRA.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Forty-nine states have civil rights/human rights entities at the state level (Mississippi does not have a civil rights commission); however, no model civil rights act has been created. As laboratories of democracy, each state has specifically tailored civil rights laws and processes. Because the processes, funding, and protected bases are so different, it is difficult to compare states. Further, analyzing each state's civil rights act and process could be an interesting topic for a national research group like the National Conference of State Legislatures or National Governors Association to pursue or determine whether model legislation would be beneficial.

Turning to Iowa, the current ICRC process is dictated by the ICRA. The proposed rules have been updated to reflect current practices, reduce redundancy between the rules and the ICRA, and acknowledge where the ICRC utilizes its broad authority.

Currently, there is no less costly method to implement the ICRA because changes would need to be made directly to the ICRA. However, there could be more costly and intrusive additions to the civil rights process. Those additions to the process include increasing the length of the administrative processing (i.e., recommending that the ICRC facilitates the direct exchange of documents between parties, which would impose an unfunded mandate on the agency). These types of recommendations have been provided by advocacy groups and attorneys that represent parties. If there is a desire to add additional steps to the complaint process or to make the ICRC's process more judicial, especially due to funding concerns, major changes to the ICRC's process should not be made at the administrative level.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Not applicable. See above.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Not applicable. See above.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The ICRC cannot consider the impact this rulemaking has on small business. The ICRC is a neutral fact-finding entity that remains impartial to the complainant and respondent. If the ICRC were to prioritize or reduce the impact to small businesses, the ICRC could be seen as giving preferential treatment to those types of respondents over other types of respondents and complainants.

Text of Proposed Rulemaking

ITEM 1. Rescind 161—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3 COMPLAINT PROCESS

161—3.1(216) Initiation of complaint.

3.1(1) Contents of complaint. Each complaint should contain the following:

- a. The full name, address, and phone number of the person making the charge;
- b. The full name and address of each respondent;
- c. A clear and concise statement of the facts constituting each alleged discriminatory practice, including pertinent dates, where known;
- d. Where employment discrimination is alleged, the approximate number of respondent's employees.

3.1(2) Technical defects in complaint. A complaint is sufficient when it includes a written statement that identifies the parties and generally describes the alleged discriminatory actions or practices. Complaints may be amended to cure technical defects or omissions including verification. Such amendments will relate back to the date the complaint was filed.

161—3.2(216) Timely filing of the complaint.

3.2(1) All alleged continuous violations that constitute a pattern or practice are timely if the most recent act occurred within 300 days of filing the complaint.

3.2(2) The 300-day filing period is subject to waiver, estoppel, and equitable tolling. Equitable tolling depends upon the facts and circumstances of the case and suspends the running of the filing period for as long as the grounds for tolling exist.

161—3.3(216) Jurisdictional review. Upon receipt of a submitted complaint form, the executive director or designee shall review the form to determine whether the commission has jurisdiction. A no jurisdiction determination constitutes a final agency action for purposes of judicial review.

161—3.4(216) Amendment process.

3.4(1) Amendment of complaint.

a. Complaints or any part thereof may be amended by the complainant or commission prior to the contested case hearing. Complaints may be amended to include additional allegations discovered during investigation. The issues at the contested case hearing shall include facts uncovered during investigation and are not limited to the allegations in the original complaint.

b. Amendments alleging additional discriminatory acts or practices related to the original complaint relate back to the date the original complaint was filed.

c. Amendments alleging additional discriminatory acts or practices that do not relate back to the original complaint will only be permitted if the amended complaint could have been filed as a timely complaint on the date the amended complaint was filed.

d. At the contested case hearing, the administrative law judge may amend the complaint at the administrative law judge's discretion. Where an amendment is made, the administrative law judge may grant the respondent a continuance if needed to prepare to defend the amended charge.

3.4(2) Amendments adding successor respondents. The complainant or the commission may at any time amend a complaint to add an alleged successor as a respondent. If a successor is added after issuance of the notice of hearing, the administrative law judge may grant a continuance to allow the successor to prepare its defense.

161—3.5(216) Notice of the complaint. Within 20 days after jurisdiction is established, the commission will serve a copy of the complaint upon the respondent by mail or electronic mail. In the absence of a response from the first named respondent within 90 days, the commission shall serve the complaint on the first named respondent by certified mail within 20 days and inform the complainant by letter of the acknowledgment of the right to withdraw the complaint or to request an administrative release to commence the complainant's own action in Iowa district court in accordance with Iowa Code section 216.16.

161—3.6(216) Preservation of records.

3.6(1) Duty to preserve. When a complaint has been served on a respondent, the respondent shall preserve all records relevant to the investigation until the complaint is finally adjudicated, including but not limited to:

a. Any books, papers, documents, applications, forms, or records of any form that are relevant to the scope of the investigation.

b. Records relating to other employees, applicants, or members holding or seeking positions similar to that held or sought by the complainant.

c. Records relating to other applicants for the same position or membership as the complainant.

3.6(2) Failure to preserve. At a contested hearing, the administrative law judge may determine that a party or agent of the party destroyed evidence relevant to the investigation. The administrative law judge may determine that the destroyed evidence was adverse to the party or agent who destroyed the evidence. The administrative law judge shall determine whether the destruction was done at a time when the party knew or should have known that the evidence destroyed was relevant to the investigation and whether the explanation for the destruction is unsatisfactory.

161—3.7 to 3.11 Reserved.

161—3.12(216) Mediation. Mediation is available to all parties irrespective of representation by counsel. Mediation may encompass all issues in the case that could be investigated. If the parties agree to seek and obtain a global settlement not limited to a resolution of the civil rights issues, the mediation may be expanded to include these collateral claims.

161—3.13 Reserved.

161—3.14(216) Document submission process.

3.14(1) *Methods of filing.* Any document, including a complaint of discrimination, may be filed by any one of the following methods:

- a. By in-person delivery to the commission office during set office hours.
- b. By regular or certified mail.
- c. By fax. For fax transmissions, the sender may be billed a reasonable fee for each page in excess of five pages.
- d. By electronic mail to the commission-established email address.

3.14(2) *Date of filing.* The date on which any document is deemed to be filed with the commission is determined according to the following:

- a. Any document received by in-person delivery will be filed as of the date of in-person delivery.
- b. Any document received by U.S. mail will be filed as of the mailing date pursuant to subrule 3.14(3).
- c. Any document received by fax will be filed as of the date shown on the face of the fax.
- d. Any document received by electronic mail will be filed as of the date received.

3.14(3) *Proof of mailing.* Proof of mailing includes a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form: “The undersigned certifies under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Iowa Civil Rights Commission, 400 E. 14th Street, Des Moines, Iowa 50319, and to the names and addresses of the persons listed below by depositing a copy thereof (in a United States post office mailbox with correct postage properly affixed or state interoffice mail). (Date) (Signature).”

3.14(4) *Conflict among proofs of mailing.* The date of mailing is the date shown by the postmark. In the absence of a legible postmark, the date of mailing is the date shown by the postage meter mark. In the absence of both a legible postmark and a legible postage meter mark, the date of mailing is the date shown by the affidavit, certificate, or certification of mailing.

161—3.15 to 3.25 Reserved.

161—3.26(216) Initial investigation of complaint—tier one investigation.

3.26(1) Questionnaire. After receipt of a complaint, the commission may mail to the parties written questionnaires. The complainant and respondent may provide responses in person, by mail, or by electronic mail.

3.26(2) Responses to the questionnaire.

a. Questionnaire responses can include written position statements. Questionnaire responses must be accompanied by supportive evidence. Attorney arguments are not considered admissible evidence. Supportive evidence should reflect how the complainant was treated and how individuals similarly situated to the complainant were treated.

b. Questionnaire responses are due 30 days from the mailing of the questionnaire. One oral or written request for an extension of 30 days or less will be granted on an informal basis without notice to the nonrequesting party. A party may assume the 30-day extension request is approved, unless otherwise notified. Any further request for extension may be subject to review by the executive director or designee and will be granted upon a showing of extenuating circumstances.

3.26(3) Failure to respond.

a. *Complainant.* A complaint may be administratively closed if a complainant fails to respond to questionnaires.

b. *Respondent.* A complaint may proceed to further investigation if the respondent fails to submit questionnaire responses with supportive evidence.

3.26(4) Suggested procedure in answering questionnaires will be provided in the cover letter of the questionnaires.

3.26(5) The tier one investigation process will determine whether further investigation is needed. If further investigation is not warranted, the complaint will be administratively closed. Further processing is warranted when the submitted information indicates a reasonable possibility of a probable cause determination or the legal issues in the complaint need development.

3.26(6) An administrative closure resulting from the preliminary screening determination is an evaluation of the probable merits of the case.

3.26(7) The commission may issue an investigation information request (IIR) after the issuance of the preliminary case report.

161—3.27 to 3.31 Reserved.

161—3.32(216) Secondary investigative process—tier two investigation.

3.32(1) After a preliminary screening determination concludes further investigation is warranted, the complaint shall be referred to designated staff for further investigation of the allegations of illegal discrimination, known as a tier two investigation.

3.32(2) Staff shall review any documents submitted in response to an initial information request and any other documentation submitted by the parties prior to the initiation of the tier two investigation.

3.32(3) At the discretion of the investigator, further steps may be taken, including party or witness interviews or the issuance of additional information requests or subpoenas.

161—3.33(216) Conclusion of investigation. Following the conclusion of a tier two investigation, staff may issue an investigative analysis (IA). The IA will result in one of the following:

1. An investigative closure,
2. A probable cause or no probable cause recommendation to an administrative law judge, or
3. A no jurisdiction determination.

161—3.34 and 3.35 Reserved.

161—3.36(216) Protective orders. The executive director or designee shall have the authority to issue protective orders in case files when necessary.

161—3.37(216) Investigative subpoenas.

3.37(1) *Application of rule.* This rule applies to subpoenas served before a notice of contested case hearing pursuant to rule 161—4.2(17A).

3.37(2) *Prior to notice of hearing.* Subpoenas may be issued by the executive director or designee before a notice of a contested case hearing. Only the commission has the right to demand issuance of a subpoena.

3.37(3) *Timing before subpoena is issued.* Where a person fails to provide requested information pursuant to the initial information request or subsequent information requests, a subpoena may be issued. A subpoena may be issued not less than seven days after the initial information request or subsequent information requests have been delivered to the person having possession, custody, or control of the requested materials.

3.37(4) *Contents of subpoena.* Every subpoena shall state the name of the commission and the purpose for which the subpoena is issued. The subpoena shall be directed to a specific person, or the person's attorney, or an officer, partner, or managing agent of any entity that is not a natural person. The subpoena for the unknown person having possession, custody, or control of the requested material or real evidence may be directed to the "custodian of records." The subpoena shall command the person to whom it is directed to produce designated books, papers, or other real evidence in the possession, custody, or control of that person at a specified time and place.

3.37(5) *Method and proof of service.* Personal service will be accomplished pursuant to Iowa Rule of Civil Procedure 1.1701(3). Proof of service is by acknowledgment of receipt by the person served or by the affidavit of the person who served the subpoena. Failure to file proof of service does not affect the validity of service.

3.37(6) Objections to subpoena.

a. An individual who intends not to comply with any part of a subpoena shall promptly petition the executive director to revoke or modify the subpoena. The petition shall separately identify each portion of the subpoena and provide the grounds upon which the petitioner does not intend to comply. A copy of the subpoena shall be attached to the petition. The commission shall mail the final determination of the petition by the executive director or designee to the petitioner.

b. The grounds for subpoena modification or revocation are met if the subpoena is:

- (1) Not within the statutory authority of the commission;
- (2) Not reasonably specific;
- (3) Unduly burdensome; or
- (4) Not reasonably relevant to matters under investigation.

c. A petition to revoke or modify a subpoena should be captioned “Motion to Quash” or “Petition to Modify/Revoke Subpoena” and include the commission case number.

3.37(7) Failure to comply. If an individual fails to comply with a subpoena, the executive director or designee may authorize the filing of a petition for enforcement in the district court.

3.37(8) Open public records law. The status of a record as a confidential public record under Iowa Code chapter 22 does not affect the authority of the commission to subpoena and compel the production of that record.

161—3.38(216) Postinvestigation determination.

3.38(1) If a case file is sent to an administrative law judge for determination, all parties will be notified of the determination in writing by mail.

3.38(2) Where the administrative law judge rejects the recommendation of the commission staff, the reasons shall be stated in writing and included in the case file.

161—3.39(216) Post-probable cause process.

3.39(1) If the administrative law judge makes a probable cause determination, a staff member shall be assigned to attempt resolution of the case through conciliation. All parties shall be notified of the time and date of any conciliation.

3.39(2) The commission will work with the complainant or complainant’s attorney to formulate an initial offer. The 30-day conciliation period begins when the offer of settlement is communicated to the respondent or respondent’s attorney.

3.39(3) The conciliation agreement is effective only after the agreement has been signed by all parties and a commissioner, the executive director, or a designee on behalf of the commission. A copy of the agreement shall be mailed to all parties.

3.39(4) To ensure compliance with a conciliation agreement, the commission shall take appropriate action to ensure compliance, including the filing of an action in district court seeking specific performance of the terms of the conciliation agreement or other remedies that may be available.

3.39(5) A respondent may not request reconsideration of a finding of probable cause.

161—3.40 to 3.42 Reserved.

161—3.43(216) Alternatives to commission process—administrative release/right to sue.

3.43(1) Issuance of right to sue letter. For a right to sue letter to be issued, the request must be filed in writing by the complainant or the complainant’s attorney and include the corresponding state and federal case numbers. After a right to sue letter has been issued, the case shall be administratively closed.

3.43(2) Exceptions to issuance of right to sue. A right to sue letter will not be issued where the complaint was not timely filed or the commission has determined the complaint is not jurisdictional.

3.43(3) Erroneous right to sue. If the right to sue letter was issued erroneously, the right to sue letter will be deemed void and the case file reopened if the error is discovered within 90 days after issuance.

161—3.44 and 3.45 Reserved.

161—3.46(216) Withdrawal process.

3.46(1) *Withdrawal of complaint.* A complainant may withdraw any part of a complaint prior to notice of a contested case hearing. After notice of a contested hearing, a complainant may only withdraw a complaint or any part of a complaint at the commission's discretion. The commission may continue investigating where deemed in the public interest.

3.46(2) *Reopening of a withdrawn complaint.* A complainant may request that the complainant's withdrawn complaint be reopened within 90 days after closure only if the commission finds that the request for withdrawal was either not filed voluntarily or was filed as a result of a mistake concerning the effect of the request for withdrawal.

3.46(3) *Withdrawal as a term of settlement.* If the withdrawal is filed pursuant to a conciliation, mediation, or other settlement agreement, the complainant shall seek redress in district court. If the district court determines that the settlement agreement is invalid, the commission may reopen the case file.

161—3.47(216) Periodic review and administrative closure.

3.47(1) *Periodic evaluation of evidence.* The executive director or designee may periodically review the complaint to determine whether further processing is warranted. When the periodic review occurs prior to the determination of probable cause, then the tier one investigative standard in subrule 3.26(5) applies. A complaint determined to not warrant further processing shall be administratively closed.

3.47(2) *Uncooperative complainant.* A case file may be administratively closed at any time if the complainant cannot be contacted after diligent efforts or is uncooperative, causing unreasonable delay in the processing of the complaint.

3.47(3) *Involuntary satisfactory adjustment.* A case file may be closed as satisfactorily adjusted when the respondent has made an offer of settlement acceptable to the executive director or designee but not to the complainant. Notice of intended closure shall state reasons for closure and be mailed to the complainant. The complainant is allowed 30 days to provide written reasons why the case file should remain open. The executive director or designee will review the response and notify the complainant of the decision.

3.47(4) *Frivolous complaints.* Following jurisdictional review, the executive director or designee may determine that a complaint is frivolous and does not warrant further processing. The executive director or designee shall only make this determination in rare circumstances and will provide notice to the chairperson of the commission regarding each case file closed pursuant to this subrule. If a case file is closed pursuant to this subrule, the complainant is eligible to request a right to sue letter pursuant to the terms of Iowa Code section 216.16 and these rules. Consideration of a frivolous complaint may include the number of previous nonmeritorious complaints filed by the complainant within the previous year.

3.47(5) *Litigation review.* The complaint may be administratively closed after a probable cause determination has been made when it is determined that the record does not justify proceeding to a public hearing. A complainant may not request to reopen the complainant's case file when the file was administratively closed following litigation review.

161—3.48 and 3.49 Reserved.

161—3.50(216) Procedure to reopen.

3.50(1) *Request for reopening of case file within 30 days.*

a. Within 30 days following the notice of the conclusion of the investigation, a party can file an intra-agency appeal. The party shall state the reasons in writing for appeal and submit any additional documentation. Within 30 days of the intra-agency appeal, the director or designee shall review the appeal. The executive director shall affirm, modify, reverse, or remand. If the case file is remanded, the executive director or designee shall transfer the case file to investigative staff for further processing.

b. The commission shall notify all parties upon receipt of any intra-agency appeal. All parties shall have 14 days to provide any response to the appeal for the executive director's or designee's consideration.

3.50(2) *Reopening of an administratively closed case file after 30 days.*

a. The commission may reopen a case file at any time a right to sue letter could have been issued under Iowa Code section 216.16(3) "a," unless otherwise provided in these rules, and where the closure was affected by any of the following:

(1) False, fraudulent, or material misrepresentation of information provided to the commission concerning a material issue in the case file by the respondent, a witness, or some other person not the complainant; or

(2) Error by the commission staff.

b. The executive director or designee shall consider the information discovered under subparagraphs 3.50(2) "a"(1) and 3.50(2) "a"(2) and determine whether the complaint requires further action.

c. If it is determined that further action is necessary, the parties or their attorneys shall be notified of the reopening of the case file. If requested by the commission, the parties shall have 30 days to submit their written positions regarding the alleged new information.

3.50(3) *No probable cause determination reopening.* The commission may reopen a case file within one year of a no probable cause determination where the determination was affected by any of the following:

a. Fraud perpetrated upon the commission by some person who is not the complainant; or

b. Material misrepresentations.

3.50(4) *Reopening from breach of settlement agreement.*

a. If a party breaches a settlement agreement, the aggrieved party may seek redress with the commission or in district court.

b. If the aggrieved party seeks commission engagement, that party has 90 days from the time of an alleged breach of a settlement agreement to request the case file be reopened to continue the investigative process, but only if all the following apply:

(1) The commission is not a party to the settlement agreement;

(2) The requesting party agrees the settlement agreement is null and void; and

(3) The requesting party waives and releases any rights to seek specific performance or damages for the alleged breach in district court.

c. All parties shall be notified that a request for reopening has been made. A copy of the request for reopening shall be provided to all parties. The parties shall be afforded no less than 14 days and no more than 30 days to submit their written position and any supporting documents regarding the request.

The executive director or designee shall determine whether the agreement has been breached or the nonrequesting party failed to negotiate the agreement in good faith. If it is determined that a material breach occurred, the parties or their attorneys shall be notified of the reopening of the case file and the case file will be referred for further processing.

161—3.51 to 3.55 Reserved.

161—3.56(216) Access to file information.

3.56(1) Disclosure of the existence or contents of a case file is prohibited except in the following circumstances:

a. Upon filing an appeal in district court of a final action, parties and their attorneys may access their case file.

b. When a case has been set for a contested case hearing and notice has been mailed, parties and their attorneys may access their case file through discovery pursuant to rule 161—4.7(17A).

c. Parties and their attorneys may access the case file upon appeal of a decision rendered by the commission in a contested case. The introduction of documents into evidence from a case file during a contested case hearing does not waive the confidentiality of other documents within that case file.

3.56(2) Attorneys seeking access to case files must provide written notification of representation.

161—3.57(216) Miscellaneous.

3.57(1) *Conflicts prohibited.* The administrative law judge designated to issue a determination will not serve as administrative law judge in the contested case hearing for the same case file.

3.57(2) *Injunctions.* If the executive director or designee determines that a complainant may be irreparably injured before a contested case hearing, the executive director or designee may direct an attorney for the commission to seek appropriate injunctive relief to preserve the rights of the complainant and the public interest.

These rules are intended to implement Iowa Code chapter 216.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 161—Chapter 8
“Discrimination in Employment”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 216

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 216, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination in Employment Act

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

December 5, 2023
10 a.m.

Grimes State Office Building
400 East 14th Street
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Civil Rights Commission (ICRC) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jacob Bennington
Iowa Civil Rights Commission
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Email: jacob.bennington@iowa.gov

Purpose and Summary

The purpose of proposed Chapter 8 is to implement the Iowa Civil Rights Act of 1965 (ICRA) by providing parameters and expectations regarding the complaint process for discrimination complaints in employment based on protected bases.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Complainants and respondents, including businesses and state agencies, will bear the costs.
 - Classes of persons that will benefit from the proposed rulemaking:
Iowans in general, including complainants, respondents, and taxpayers, will benefit.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
Both complainants and respondents incur costs regarding the complaint process, including the cost to complete the complaint, questionnaires, and interviews and appearing for hearings. Additionally, if a respondent is found to be in violation of the ICRA, damages can be assessed against the respondent by means of a settlement, an administrative law judge decision, or an ICRC decision.
 - Qualitative description of impact:

Both complainants and respondents are impacted by the complaint process. How the parties interact with the process and the ability to understand the process have shaped the qualitative impact of the civil rights process in Iowa. The current language in Chapter 8 is complex. The proposed language in this Regulatory Analysis allows for improved readability and accessibility by Iowans while keeping the integrity of the civil rights process.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The costs to the ICRC include staff salaries and costs to process complaints for the Employment+ Unit. Other state agencies that engage with the ICRC are reimbursed for the services provided to the ICRC (administrative law judges, human resources, budget/accounting, and Attorney General). Further, if a complaint is filed against another state agency, that named agency would incur costs in responding to the complaint.

- Anticipated effect on state revenues:

The proposed rulemaking is anticipated to have a neutral effect on state revenue because this rulemaking is necessary to effectuate the implementation of the ICRA. Funding is appropriated annually from the General Fund.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Iowa's state motto is: "Our liberties we prize and our rights we will maintain." The implementation of the rules to effectuate the ICRA is to ensure that Iowans' rights are maintained. Therefore, inaction is not possible.

The costs to the State include the staffing, materials, and resources needed to receive, investigate, mediate, conciliate, and determine the merits of complaints of illegal discrimination. The rules utilized to effectuate the ICRA do not add an increase in costs to complainants or respondents, nor do the proposed rules provide overly burdensome documentation requirements for ICRC staff to determine the merits of each complaint. Based on the proposed rules, which effectuate the ICRA, the benefits of ensuring Iowans have the opportunity for redress and justice regarding complaints of illegal discrimination outweigh the costs of only utilizing the language of the ICRA.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Forty-nine states have civil rights/human rights entities at the state level (Mississippi does not have a civil rights commission); however, no model civil rights act has been created. As laboratories of democracy, each state has specifically tailored civil rights laws and processes. Because the processes, funding, and protected bases are so different, it is difficult to compare states. Further, analyzing each state's civil rights act and process could be an interesting topic for a national research group like the National Conference of State Legislatures or National Governors Association to pursue or determine whether model legislation would be beneficial.

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6. Alternative methods considered by the agency:
- Description of any alternative methods that were seriously considered by the agency:
Not applicable. Please see above.
 - Reasons why alternative methods were rejected in favor of the proposed rulemaking:
Not applicable. Please see above.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The ICRC cannot consider the impact this rulemaking has on small business. The ICRC is a neutral fact-finding entity that remains impartial to the complainant and respondent. If the ICRC were to prioritize or reduce the impact to small businesses, the ICRC could be seen as giving preferential treatment to those types of respondents over other types of respondents and complainants.

Text of Proposed Rulemaking

ITEM 1. Rescind 161—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8 DISCRIMINATION IN EMPLOYMENT

161—8.1(216) Definitions.

“Has a record of such an impairment” means having a history of, or being misclassified as having, a mental or physical impairment that substantially limits a major life activity.

“Major life activities” includes but is not limited to caring for oneself, manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

“Physical or mental impairment” includes:

1. Physiological disorders or conditions, cosmetic disfigurements, or anatomical loss affecting any of the following systems: neurological; musculoskeletal; special sense organs; respiratory and speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic or lymphatic; skin; and endocrine; or
2. Mental or psychological disorders such as intellectual disabilities, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

“Regarded as having an impairment” means:

1. The perception of having an impairment that substantially limits major life activities; or
2. Having an impairment that substantially limits major life activities because of others' attitudes toward the impairment.

“Substantially disabled” means having a physical or mental impairment that substantially limits a major life activity, having a record of such impairment, or being regarded as having an impairment.

161—8.2(216) Bona fide occupational qualifications.

8.2(1) An employer, employment agency, or labor organization may take action otherwise prohibited under commission rules where the protected basis is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business.

8.2(2) Bona fide occupational qualifications are narrow in scope and do not include convenience or an employer's preferences.

8.2(3) An employer or employment agency's following of federal or state statutes or regulations establishing employment standards is not illegal discrimination when the standards are bona fide occupational qualifications.

8.2(4) A bona fide occupational qualification will also be recognized where there exist special, individual occupational circumstances such as acting or modeling.

8.2(5) Bona fide occupational qualifications do not include assumptions about a protected basis, comparative characteristics of a protected basis, and stereotypes based on a protected basis.

8.2(6) No publication shall advertise employment opportunities containing any indication of a preference, limitation, or restriction based upon age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability, unless there is a bona fide occupational qualification.

161—8.3 to 8.10 Reserved.

161—8.11(216) Reasonable accommodations—assessment and placement.

8.11(1) Employers shall accommodate the known physical or mental limitations of qualified disabled applicants or employees unless doing so would result in an undue hardship. Employers cannot deny employment to qualified disabled employees or applicants due to their need for reasonable accommodation.

8.11(2) Reasonable accommodation may include:

- a.* Making facilities readily accessible to individuals with disabilities; and
- b.* Job restructuring, modified work schedules, acquisition or modification of equipment or devices, readers or interpreters, or similar actions.

8.11(3) In determining whether an accommodation would impose an undue hardship on an employer, factors to be considered may include:

- a.* The size of the employer, including the number of employees, number and type of facilities, and budget;
- b.* The nature of the employer's operation, including the composition and structure of its workforce; and
- c.* The nature and cost of the accommodation.

161—8.12(216) Physical examinations.

8.12(1) If examinations or assessments are required, they should be designed to determine whether an applicant:

- a.* Has the ability to perform the duties of the position.
- b.* Is qualified to do the work without adverse consequences such as creating a danger to the life or health of others.
- c.* Is professionally competent or has the necessary skills or ability to become professionally competent to perform the duties of the job.

8.12(2) Physical standards for employment must be reasonable and based on complete, factual information about job duties, working conditions, hazards, and essential physical requirements.

161—8.13(216) Disability arising during employment. When an individual becomes disabled during employment, the employer shall provide reasonable accommodations pursuant to rule 161—8.11(216).

161—8.14 to 8.24 Reserved.

161—8.25(216) Retirement plans and benefit systems.

8.25(1) An employer shall not be required to:

- a.* Hire back an employee following retirement; or
- b.* Hire an applicant for employment whose age is the retirement age under the employer's retirement plan or benefit system provided that the plan or system is not a mere subterfuge for the purpose of evading the provisions of the Iowa civil rights Act of 1965.

8.25(2) Retirement plans shall not require involuntary retirement of a person under the age of 70 because of the person's age, except where otherwise provided in state law.

8.25(3) Mandatory retirement based on age will not be applied to members of the Iowa public employees' retirement system.

8.25(4) Employer contributions to insurance, pension, and other programs are not a violation of the Act if those contributions are the same for each employee or if the resulting benefits are equal.

These rules are intended to implement Iowa Code chapter 216.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 495—Chapters 4, 5, and 11
“Contribution Rates”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 97B.4 and 97B.15
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 97B and SECURE 2.0
Act of 2022

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

December 6, 2023
1 to 2 p.m.

Iowa Public Employees’ Retirement
System (IPERS) Boardroom
Via video/conference call:
teams.microsoft.com/l/meetup-join/19%3ameeting_M2U5NWVjN2YtMDA_INC00ZGE1LWFjMDItOWYyOGJkOTg0MDIz%40thread.v2/0?context=%7b%22Tid%22%3a%22af5fa057-d92d-4799-9857-ab5d6d03669f%22%2c%22Oid%22%3a%220b57ae51-efdf-4a96-95e6-f5c76086fd0e%22%7d
Meeting ID: 237 603 473 172
Passcode: fSnADd

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by IPERS no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Cheryl A. Vander Hart
7401 Register Drive
Des Moines, Iowa 50321
Phone: 515.281.7623
Email: cheryl.vanderhart@ipers.org

Purpose and Summary

The proposed amendments include the following:

Item 1: Implement contribution rates for employers and regular and special service members beginning July 1, 2024, to reflect FY 2025 rates. Pursuant to the Iowa Code, the rates must be reviewed and updated yearly.

Item 2: Eliminate an invalid reference within a lettered paragraph as requested by the Legislative Services Agency (LSA).

Item 3: Align an existing lettered paragraph with applicable provision(s) of the federal SECURE 2.0 Act of 2022.

Item 4: Add a dollar amount to an existing subrule establishing that IPERS will charge a processing fee for paper warrants, pursuant to new Iowa Code section 17A.6C, which requires any fee established by an agency be adopted by rule. There is no new fee being created here; a dollar amount is being added to bring this subrule into compliance with legislation enacted in the 2023 Legislative Session.

Item 5: Bring an existing subrule, pursuant to 2023 Iowa Acts, House File 3565 as amended by 2023 Iowa Acts, House File 2641, sections 72 through 74, into compliance with the required transition from the Department of Administrative Services to the Department of Revenue.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
IPERS members and employers will bear the costs.
 - Classes of persons that will benefit from the proposed rulemaking:
IPERS members and employers will benefit.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
This information is not yet available.
 - Qualitative description of impact:
The contribution rates rise or fall based upon procedures outlined in the Iowa Code in conjunction with the determination of the designated consulting actuary.

3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
There are costs associated with updated rates being calculated by designated consulting actuary and minimal costs to update the IPERS website.
 - Anticipated effect on state revenues:
The effect depends entirely upon whether the updated contribution rates for each IPERS member class remain at the same levels or are lowered and/or raised; a corresponding effect on revenue will be seen. Contribution rates for all member classes remain the same for July 1, 2024, through June 30, 2025.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:
Inaction would violate the Iowa Code and IPERS' Contribution Rate Funding Policy.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:
Not applicable.

6. Alternative methods considered by the agency:
 - Description of any alternative methods that were seriously considered by the agency:
Not applicable.
 - Reasons why alternative methods were rejected in favor of the proposed rulemaking:
The Iowa Code gives IPERS certain parameters that must be followed when IPERS lowers or raises contribution levels, and the contribution levels are set forth by IPERS' actuary. IPERS is charged with setting a "Required Contribution Rate" for each membership category within IPERS that will discharge its liabilities. Iowa Code section 97B.11(3)"d" provides the basic framework for implementing this charge.

Small Business Impact

- If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:
- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
 - Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking’s compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Amend subrules 4.6(1) to 4.6(3) as follows:

4.6(1) Contribution rates for regular class members.

a. No change.

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by ~~rule-making~~ rulemaking that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024
Combined rate	15.73%	15.73%	15.73%	15.73%	15.73%	<u>15.73%</u>
Employer	9.44%	9.44%	9.44%	9.44%	9.44%	<u>9.44%</u>
Employee	6.29%	6.29%	6.29%	6.29%	6.29%	<u>6.29%</u>

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024
Combined rate	19.02%	18.52%	18.02%	17.52%	17.02%	<u>17.02%</u>
Employer	9.51%	9.26%	9.01%	8.76%	8.51%	<u>8.51%</u>
Employee	9.51%	9.26%	9.01%	8.76%	8.51%	<u>8.51%</u>

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024
Combined rate	16.52%	16.02%	15.52%	15.52%	15.52%	<u>15.52%</u>
Employer	9.91%	9.61%	9.31%	9.31%	9.31%	<u>9.31%</u>
Employee	6.61%	6.41%	6.21%	6.21%	6.21%	<u>6.21%</u>

ITEM 2. Amend paragraph **5.2(6)“g”** as follows:

g. An emergency medical care provider who provides emergency medical services, as defined in Iowa Code section 147A.1, and who is not a member of the retirement systems established in Iowa Code chapter ~~401~~ or 411 shall be covered.

ITEM 3. Amend paragraph **11.2(4)“a”** as follows:

a. Notwithstanding the foregoing, IPERS shall commence payment of a member’s retirement benefit under Iowa Code sections 97B.49A to 97B.49I (under Option 2) no later than the “required beginning date” ~~specified under Internal Revenue Code Section 401(a)(9)~~, even if the member has not submitted the application for benefits. If the lump sum actuarial equivalent could have been elected by the member, payments shall be made in such a lump sum rather than as a monthly allowance. The

“required beginning date” is defined as the later of: ~~(1) April 1 of the year following the year that the member attains the age of 72 (or the age of 70 ½ for that member who attains the age of 70 ½ on or before December 31, 2019), or (2) April 1 of the year following the year that the member actually terminates all employment with employers covered under Iowa Code chapter 97B.~~

(1) April 1 of the year following the year that the member attains the applicable age, determined as follows:

1. For members who turned age 72 before 2023, the applicable age is age 72 (or age 70 ½ if they were born before July 1, 1949), and

2. For members who will turn age 72 after 2022 and age 73 before 2033, the applicable age is age 73; or

(2) April 1 of the year following the year that the member actually terminates all employment with employers covered under Iowa Code chapter 97B.

ITEM 4. Amend subrule 11.6(1) as follows:

11.6(1) *Monthly paper warrants processing fee.* Effective July 1, 2005, IPERS shall charge a \$1 per-warrant processing fee to members who choose to receive paper warrants in lieu of electronic deposits of their monthly retirement allowance. The fee may be waived if the person establishes that it would be an undue hardship for the person to do what is necessary to receive payment of the person’s IPERS monthly retirement allowance by electronic deposit. The processing fee will be deducted from the member’s retirement allowance on a posttax basis.

For purposes of this subrule, a member claiming undue hardship must establish that the cost normally assessed for the processing of paper warrants would be unduly burdensome because of the member’s limited income, or is otherwise financially burdensome or physically impracticable.

ITEM 5. Amend subrule 11.7(6) as follows:

11.7(6) *Offsets against amounts payable.* IPERS may, in addition to other remedies and after notice to the recipient, request an offset against amounts owing to the recipient by the state according to the offset procedures pursuant to Iowa Code sections ~~8A.504 and 421.17~~, or section 421.65 as enacted by 2020 Iowa Acts, House File 2565, section 16, as applicable.

ARC 7113C

MANAGEMENT DEPARTMENT[541]**Notice of Intended Action****Proposing rulemaking related to organization and operation
and providing an opportunity for public comment**

The Department of Management hereby proposes to rescind Chapter 1, “Organization and Operation,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 8.6 and 25.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 8.

Purpose and Summary

The proposed chapter describes the organization of the Department for the public, including coordination of policy planning, reports, program development, and interagency programs.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on December 6, 2023. Comments should be directed to:

Gloria Van Rees
Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Email: gloria.vanrees@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

December 6, 2023
1 to 2 p.m.

State Capitol, Room G14
1007 East Grand Avenue
Des Moines, Iowa

MANAGEMENT DEPARTMENT[541](cont'd)

December 8, 2023
1 to 2 p.m.

State Capitol, Room G14
1007 East Grand Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the public hearings may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearings and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 541—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION AND OPERATION

541—1.1(8) Purpose. This chapter describes the organization and operation of the department of management (department), including the coordination of policy planning, management of interagency programs, economic reports and program development.

541—1.2(8) Scope of the rules. The rules for the department are promulgated under Iowa Code chapter 8 and apply to all matters before the department. No rule, in any way, relieves a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various divisions of the department, from any duty under the laws of this state.

541—1.3(8) Waiver. The purpose of these rules is to facilitate the business before the department and to promote a just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise provided for by law, may be waived by the department to prevent undue hardship to a party, to a departmental proceeding, or to a person transacting business with the department. The reasons for granting a waiver of an administrative rule stated in writing will be a part of the record of the proceeding or a part of the departmental file in other matters.

541—1.4(8) Duties of the department. The department plans, develops, and recommends policy decisions for management of state government; administers local budget laws (cities, counties, and schools); oversees and ensures compliance with affirmative action; implements policies through coordination and budget processes; and monitors and evaluates the consistent, efficient, and effective operation of state government. The department consists of budgeting, planning, and early childhood operations and the following agencies or boards: state appeal board, city finance committee, county finance committee, and early childhood Iowa state board.

541—1.5(8) Definitions.

“*City budget*” means the budget adopted by city officials that incorporates specified requirements as stated in Iowa Code section 384.16.

“*Contract compliance director*” means the individual designated to oversee and impose sanctions in connection with state programs emphasizing equal opportunity through affirmative action, contract compliance, policies, and procurement set-aside requirements.

MANAGEMENT DEPARTMENT[541](cont'd)

“*County budget*” means the budget adopted by the board of supervisors pursuant to Iowa Code chapter 331.

“*Department*” means the department of management.

“*Director*” means the director of the department of management as appointed by the governor and subject to senate confirmation.

1.5(1) *State appeal board—fees.* The state appeal board considers the protests of local government budgets, as well as all general and tort claims against the state, as interpreted by the three members: treasurer of state, auditor of state and director of the department of management. Department of management staff implement proper procedures as directed by the state appeal board as assigned by Iowa Code chapter 24. The processing fee for filing a general claim with the state appeal board is \$5, which is billed and paid quarterly by the state agency that incurred the liability of the claim. This fee is not reimbursable from the vendor to the state agency.

1.5(2) *City finance committee.* The city finance committee promulgates rules relating to city budget amendments, establishes guidelines for the capital improvement program, reviews and comments on city budgets and conducts studies of municipal revenues and expenditures as specified in Iowa Code section 384.13.

1.5(3) *County finance committee.* The county finance committee establishes guidelines for program budgeting and accounting, reviews and comments on county budgets, and conducts studies of county revenues and expenditures. In addition, the committee performs other duties as assigned by law pursuant to Iowa Code section 333A.4.

541—1.6(8) Central office and communications. Correspondence and communications with the department, state board of appeals, county finance committee, or city finance committee are to be addressed or directed to the department’s office located at Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015; telephone 515.281.3322.

These rules are intended to implement Iowa Code sections 8.6 and 25.1.

ARC 7114C

MANAGEMENT DEPARTMENT[541]

Notice of Intended Action

**Proposing rulemaking related to petitions for rulemaking
and providing an opportunity for public comment**

The Department of Management hereby proposes to rescind Chapter 5, “Petitions for Rule Making,” and to adopt a new Chapter 5, “Petitions for Rulemaking,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 8.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 8.

Purpose and Summary

The proposed chapter clarifies the rulemaking procedure for the Department.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

MANAGEMENT DEPARTMENT[541](cont'd)

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on December 6, 2023. Comments should be directed to:

Gloria Van Rees
Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Email: gloria.vanrees@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

December 6, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa
December 8, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa

Persons who wish to make oral comments at the public hearings may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearings and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 541—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
PETITIONS FOR RULEMAKING

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

MANAGEMENT DEPARTMENT[541](cont'd)

541—5.1(17A) Petition for rulemaking. In lieu of “(designate office)”, insert “State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”. In lieu of “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

541—5.3(17A) Inquiries. In lieu of “(designate official by full title and address)”, insert “Director, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”.

These rules are intended to implement Iowa Code section 8.6 and chapter 17A.

ARC 7115C

MANAGEMENT DEPARTMENT[541]

Notice of Intended Action

Proposing rulemaking related to declaratory orders and providing an opportunity for public comment

The Department of Management hereby proposes to rescind Chapter 6, “Declaratory Orders,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 17A.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

This proposed chapter clarifies uniform rules and agency procedure in regard to declaratory orders.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on December 6, 2023. Comments should be directed to:

MANAGEMENT DEPARTMENT[541](cont'd)

Gloria Van Rees
Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Email: gloria.vanrees@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

December 6, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa
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December 8, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa
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Persons who wish to make oral comments at the public hearings may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearings and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 541—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
DECLARATORY ORDERS

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

541—6.1(17A) Petition for declaratory order. In lieu of “(designate agency)”, insert “department”. In lieu of “(designate office)”, insert “the Director’s Office, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”. In lieu of “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

541—6.2(17A) Notice of petition. In lieu of “ ___ days (15 or less)”, insert “15 days”. In lieu of “(designate agency)”, insert “the department”.

541—6.3(17A) Intervention.

MANAGEMENT DEPARTMENT[541](cont'd)

6.3(1) In lieu of “within ___ days”, insert “within 15 days”. Strike “(after time for notice under X.2(17A))”. In lieu of “X.8(17A))”, insert “6.8(17A))”.

6.3(2) In lieu of “(designate agency)”, insert “the department”.

6.3(3) In lieu of “(designate office)”, insert “the Director’s Office, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”. In lieu of “(designate agency)”, insert “department”. In lieu of “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

541—6.4(17A) Briefs. In lieu of “(designate agency)”, insert “department”.

541—6.5(17A) Inquiries. In lieu of “(designate official by full title and address)”, insert “the Director, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”.

541—6.6(17A) Service and filing of petitions and other papers.

6.6(2) In lieu of “(specify office and address)”, insert “the Director’s Office, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”. In lieu of “(agency name)”, insert “department”.

6.6(3) In lieu of “(uniform rule on contested cases X.12(17A))”, insert “rule 481—10.12(17A))”.

541—6.7(17A) Consideration. In lieu of “(designate agency)”, insert “department”.

541—6.8(17A) Action on petition.

6.8(1) In lieu of “(designate agency head)”, insert “director”.

6.8(2) In lieu of “(contested case uniform rule X.2(17A))”, insert “rule 481—10.1(10A))”.

541—6.9(17A) Refusal to issue order.

6.9(1) In lieu of “(designate agency)”, insert “department”.

541—6.12(17A) Effect of a declaratory order. In lieu of “(designate agency)”, insert “department”.

These rules are intended to implement Iowa Code section 17A.9.

ARC 7116C

MANAGEMENT DEPARTMENT[541]

Notice of Intended Action

Proposing rulemaking related to agency procedure for rulemaking
and providing an opportunity for public comment

The Department of Management hereby proposes to rescind Chapter 7, “Agency Procedure for Rule Making,” and to adopt a new Chapter 7, “Agency Procedure for Rulemaking,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and section 25B.6.

Purpose and Summary

MANAGEMENT DEPARTMENT[541](cont'd)

The proposed chapter clarifies uniform rules and agency procedure in regard to rulemaking.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on December 6, 2023. Comments should be directed to:

Gloria Van Rees
Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Email: gloria.vanrees@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

December 6, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa
December 8, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa

Persons who wish to make oral comments at the public hearings may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearings and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

MANAGEMENT DEPARTMENT[541](cont'd)

ITEM 1. Rescind 541—Chapter 7 and adopt the following new chapter in lieu thereof:

CHAPTER 7
AGENCY PROCEDURE FOR RULEMAKING

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rulemaking, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

541—7.5(17A) Public participation.

7.5(1) *Written comments.* In lieu of the words “(identify office and address)”, insert “Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”.

7.5(5) *Accessibility.* In lieu of the words “(designate office and telephone number)”, insert “the department of management at 515.281.3322”.

541—7.6(17A) Regulatory analysis.

7.6(2) *Mailing list.* In lieu of the words “(designate office)”, insert “Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”.

541—7.10(17A) Exemptions from public rulemaking procedures.

7.10(1) *Omission of notice and comment.* The department may adopt a rule without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to its adoption pursuant to Iowa Code section 17A.4(3) “a” when the statute so provides or with the approval of the administrative rules review committee.

7.10(2) *Public proceedings on rules adopted without them.* The department may, at any time, commence a standard rulemaking proceeding for the adoption of a rule that is identical or similar to a rule it adopts in reliance upon subrule 7.10(1). After a standard rulemaking proceeding commenced pursuant to this subrule, the department may either readopt the rule it adopted without benefit of all usual procedures on the basis of subrule 7.10(1), or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.

541—7.11(17A) Concise statement of reasons.

7.11(1) *General.* In lieu of the words “(specify office and address)”, insert “Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015”.

These rules are intended to implement Iowa Code chapter 17A and section 25B.6.

ARC 7117C

MANAGEMENT DEPARTMENT[541]

Notice of Intended Action

**Proposing rulemaking related to public records and fair information practices
and providing an opportunity for public comment**

The Department of Management hereby proposes to rescind Chapter 8, “Public Records and Fair Information Practices,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 22.11.

State or Federal Law Implemented

MANAGEMENT DEPARTMENT[541](cont'd)

This rulemaking implements, in whole or in part, Iowa Code section 22.11.

Purpose and Summary

The proposed Chapter 8 clarifies uniform rules and agency procedure in regard to public records and fair information practices.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on December 5, 2023. Comments should be directed to:

Gloria Van Rees
Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Email: gloria.vanrees@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

December 6, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa
December 8, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa

Persons who wish to make oral comments at the public hearings may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearings and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

MANAGEMENT DEPARTMENT[541](cont'd)

The following rulemaking action is proposed:

ITEM 1. Rescind 541—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to public records and fair information practices, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

541—8.1(17A,22) Definitions. As used in this chapter:

“Agency.” In lieu of “(official or body issuing these rules)”, insert “department of management”.

“Nonincidental retrieval or supervisory service” means services provided by the department's staff (or staff from the department of administrative services) to persons requesting access to public documents, which exceed 20 hours in duration.

“Nonproprietary records” means those records that are in the possession of the department but that are generated for the purposes of other units of government.

“Public record” means a record as defined in Iowa Code section 22.1. A public record includes both confidential and open records.

541—8.2(17A,22) Public record retention and access.

8.2(1) Record policy. The department of management is committed to ensuring that the workings of the department are open to public inspection. To that end, a public record in the custody of the department will be maintained and archived through a standard record retention policy, with public access to be given in full compliance with applicable provisions of law.

The record retention program will provide economy and efficiency in the creation, organization, administrative use, maintenance, security, availability, and disposition of public records to ensure that a needless record will not be created or retained, and a valuable record will be preserved, as provided under Iowa law. The department will preserve the integrity of public records, and reply to all open records requests in a timely, responsive, and efficient manner in full compliance with applicable provisions of law.

8.2(2) Record retention requirements. Every record made or received under the authority of, or coming into the custody, control, or possession of, department of management personnel, in connection with the transaction of official business of state government, and that has sufficient legal, fiscal, administrative, or historical value will be retained in accordance with Iowa law. The director of the department of management will designate a records retention officer to oversee the department's record retention program and to serve as the primary point of contact with the state archives.

The department will follow the records retention protocol that is established by the Iowa records retention commission. The department of management records retention officer will select retention mechanisms that are designed to implement the commission protocol and arrange for training for the department's personnel on each selected mechanism.

8.2(3) Confidential records. Confidential records may be withheld, and confidential information within an otherwise open record may be redacted, prior to a record's release for public examination and copying. If a confidential record is withheld from examination and copying, or confidential information within an otherwise open record is redacted, the department of management will identify the document(s) and cite the applicable provision of law that supports the decision to withhold the confidential information from public examination.

541—8.3(17A,22) Requests for access to records.

8.3(1) Open records. Open records will be available to the public during customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday (except holidays). Immediate access to records

MANAGEMENT DEPARTMENT[541](cont'd)

may be affected by a good-faith effort to verify the scope of the records requested and to determine whether any of the records or information contained therein is confidential in nature.

In the event circumstances prolong a timely response, the department will notify the requester at once and attempt an alternate arrangement to provide the response in a manner satisfactory to the requester. For nonproprietary records, the department is only a repository and is not the “lawful custodian” of the records under the meaning of Iowa Code chapter 22. Nonproprietary records will be provided only to the unit of state government that is the lawful custodian of such records under Iowa Code chapter 22.

8.3(2) *Requesting records.* Requests for access to a public record may be made by mail, electronically, by telephone or in person. A request for access to a public record should be made to the director, who will be responsible for implementing the requirements of public records laws inside the department.

a. A person who submits a request for public records will provide the person’s name, address, and telephone number in order to facilitate effective communication with the department regarding the request.

b. Mail requests will be addressed to: Director, Department of Management, State Capitol Room 13, 1007 East Grand Avenue, Des Moines, Iowa 50319-0015.

c. Electronic requests will include the term “Public Records Request” in the subject field and should be sent to the director’s email address as found on the department’s website at dom.ia.gov.

d. Telephone requests should be made to 515.281.3322.

e. A person who submits a request orally will receive a verification letter or electronic communication, whichever is preferred by the requester, from the department verifying the specific scope of the search requested. The verification letter or electronic communication will be transmitted before the request for documents is processed.

In the event that a request cannot be fulfilled within a reasonable time, the requester will be so notified and an estimated completion date will be provided.

8.3(3) *Record identification.* Requests for access to a public record will identify the particular public record to which access is requested by name or description in order to identify efficiently the desired record.

a. The requester’s description should specify:

(1) The particular type of record sought.

(2) The particular time period to be searched by start and end date.

(3) The author or recipient, or both, of the record requested, to the extent possible.

(4) To the extent possible, the particular records medium to be searched (e.g., letters, memoranda, reports, recordings).

(5) Any other pertinent information that will assist the department in locating the record requested.

b. The requester will specify if the request applies to a record stored in an electronic form and shall list the search terms to be used.

8.3(4) *Record search.* Department of management personnel should direct public records requests to the director for docketing and processing. Before a search is conducted, the director may contact the requester if there are questions concerning the scope of the record request. The department of management will employ a staff member who is proficient in conducting electronic records searches within the department. This individual will be responsible for conducting all searches for electronic records that are accessible inside the department of management.

a. Upon receipt of a request for access to a public record, the department will promptly take all reasonable steps to preserve a public record while the request is pending.

b. Every public record that is gathered pursuant to a records request will be examined to determine whether the record is confidential and for completeness in response to the request.

c. Every record that is presented to the public for review will be attached to a transmittal letter that specifies the manner in which the records search was performed.

d. Questions by the public regarding the scope of a records search or requests for an expanded search should be submitted to the director in writing.

MANAGEMENT DEPARTMENT[541](cont'd)

8.3(5) Fees. A fee for time spent retrieving an open record or supervising the public examination of an open record, or both, may be charged to the requester of the record in an amount equal to the actual cost of time spent providing nonincidental retrieval or supervisory services, or both, as provided under applicable law. Whenever possible, an estimate of fees will be provided to the requester before a search is initiated.

a. The actual cost for nonincidental retrieval or supervisory services, or both, may vary according to the nature of the search that is specified by the requester. However, the fees for nonincidental retrieval or supervisory services, or both, performed by department of management staff pursuant to a request for records that are accessible inside the department of management will ordinarily be set at \$15 per hour. The fees for department of management records that are accessible only with the assistance of department of administrative services or state archives personnel will be based on the fee structure that is established by those agencies. Requesters are generally billed for fees after their request has been processed. However, if total fees are expected to exceed \$250, the department of management may need payment in advance of processing.

b. Photocopies of open records located in the department office will be provided at no charge for the first 25 pages, and 20 cents per page for each additional page.

541—8.9(17A,22) Disclosures without the consent of the subject.

8.9(1) Open records are routinely disclosed without the consent of the subject.

8.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 541—8.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

541—8.10(17A,22) Routine use.

8.10(1) “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. It includes disclosures obligated to be made by statute other than the public records law, Iowa Code chapter 22.

8.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

MANAGEMENT DEPARTMENT[541](cont'd)

- c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.
- d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
- e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
- f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

541—8.11(17A,22) Consensual disclosure of confidential records.

8.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 541—8.7(17A,22).

8.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official who seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

541—8.12(17A,22) Release to subject.

8.12(1) The agency need not release records to the subject in the following circumstances:

- a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.
- b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.
- c. Peace officers' investigative reports may be withheld from the subject, except as mandated by the Iowa Code. (Please refer to Iowa Code section 22.7(5).)
- d. As otherwise authorized by law.

8.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

541—8.13(17A,22) Availability of records.

8.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

8.13(2) *Confidential records.* The department of management may withhold information reflecting departmental budget recommendations for the following fiscal year until the information is made public by the governor.

8.13(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law.

541—8.14 Reserved.

541—8.15(17A,22) Other records. The agency maintains a variety of records that do not generally contain information pertaining to named individuals. The agency maintains the following records, not heretofore listed, which do not generally contain personally identifiable or confidential information: annual reports; press releases; budget information (following presentation by the governor); receipt statements; revenue information; newsletters; public meeting agendas and minutes; budget information relating to cities, counties or school districts; state revenue forecasts; policy information as recommended to the governor; progress review materials and targeted small business compliance reports.

541—8.16(17A,22) Applicability. This chapter does not:

1. Mandate the agency to index or retrieve records that contain information about individuals by that person's name or other personal identifier.

MANAGEMENT DEPARTMENT[541](cont'd)

2. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency that are governed by the rules of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings will be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

These rules are intended to implement Iowa Code section 22.11.

ARC 7118C

MANAGEMENT DEPARTMENT[541]

Notice of Intended Action

**Proposing rulemaking related to grants enterprise management system
and providing an opportunity for public comment**

The Department of Management hereby proposes to rescind Chapter 11, “Grants Enterprise Management System,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 8.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8.9 and 8.10.

Purpose and Summary

The Grants Enterprise Management System (GEMS) is used by Iowans and Iowa businesses to apply for grants offered by or managed by state government entities. The proposed rules provide for the ability to implement GEMS for use by state agencies to provide grants for which Iowans, including businesses and individual Iowans, can apply and seek grant funds.

As of November 2022, there were 17 participating agencies, 26,498 users, and 4,249 participating organizations.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

Public Comment

MANAGEMENT DEPARTMENT[541](cont'd)

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on December 6, 2023. Comments should be directed to:

Gloria Van Rees
Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Email: gloria.vanrees@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

December 6, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa
December 8, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa

Persons who wish to make oral comments at the public hearings may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearings and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 541—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
GRANTS ENTERPRISE MANAGEMENT SYSTEM

541—11.1(8) Purpose. These rules are designed to establish a grants enterprise management system (GEMS) under Iowa Code sections 8.9 and 8.10. The primary goals of GEMS include:

1. Securing additional nonstate funding;
2. Fostering cooperation and coordination between state agencies;
3. Discouraging duplication of competitive grant application efforts;
4. Providing a mechanism for the timely exchange of information among state agencies on proposals potentially affecting the agencies; and
5. Providing policy makers, legislators and the citizens of Iowa with information on grant funds received and state agencies' competitive grant applications.

541—11.2(8) Definitions. As used in this chapter:

“*Applicant agency*” means the agency intending to apply for, or applying for, a competitive grant.

MANAGEMENT DEPARTMENT[541](cont'd)

“*Competitive grant application*” means a grant application that is in competition with other applications for limited funds.

“*Federal Executive Order 12372*” means the federal executive order that provides for the establishment of a process for the coordination and review of proposed federal financial assistance. In the order, states are encouraged to develop their own processes, and federal agencies, to the extent permitted by law, utilize the state process.

“*GEMS coordinator*” means the person appointed by the director of the department of management to coordinate GEMS.

“*I/3 grant tracking module*” means Integrated Information for Iowa (I/3) and the portion of the I/3 cost accounting module designed to collect data on all nonstate funds received by state government agencies.

“*Single point of contact*” means the GEMS coordinator.

“*State agency*” means any department or agency of state government except the board of regents.

541—11.3(8) GEMS coordinator. The GEMS facilitator will coordinate all aspects of GEMS under Iowa Code sections 8.9 and 8.10. The GEMS coordinator will:

1. Identify and execute strategies to secure nonstate funds;
2. Ensure that all agencies utilize the Iowa grants database to track all competitive grant applications;
3. Ensure that all agencies utilize the I/3 grant tracking module for all grants received;
4. Operate as the state’s single point of contact, pursuant to Federal Executive Order 12372;
5. Establish a grants network, representing all state agencies, to operate in an advisory capacity;
6. Assign a state application identifier (SAI) number at each stage of the application process: notification of intent, application submitted, and final status;
7. Review competitive grant applications of special significance, at the coordinator’s discretion;
8. Serve as liaison with the state single point of contact in contiguous states;
9. In cooperation with other state agencies, monitor and refine the GEMS competitive grants review procedures;
10. Maintain a list of state agency grants coordinators;
11. Ensure, to the greatest degree practicable, that all GEMS competitive grants reviews are conducted in accordance with these rules;
12. Provide training and policy guidance; and
13. Provide status and results reports to appropriate contacts on an as-needed basis.

541—11.4(8) Grants network. The grants network includes representation from all state agencies. Agency representatives will serve as agency grants coordinators. All agency grants coordinators will work with the GEMS coordinator to implement Iowa Code section 8.10 and do the following:

1. Communicate relevant information to the GEMS coordinator;
2. Utilize the Iowa grants database to track all competitive grant applications;
3. Utilize the I/3 grant tracking module for all grants received;
4. Inform the Iowa office for state-federal relations of initiatives for which the agency is seeking federal funds; and
5. Participate in issue-specific federal legislation work groups.

541—11.5(8) GEMS competitive grants review system. The purpose of the GEMS competitive grants review system is to allow state government coordination and review of all competitive grant applications in order to avoid duplication and conflicts.

11.5(1) Agency competitive grants review coordinator. Agency grants coordinators will:

- a. Serve as the agency’s competitive grants review coordinator and as liaison between the agency and the GEMS coordinator for the GEMS competitive grants review process.
- b. Assist in the evaluation of the GEMS competitive grants review process.

MANAGEMENT DEPARTMENT[541](cont'd)

11.5(2) GEMS competitive grants review process. The following is a generalized summary of the GEMS competitive grants review process that will be followed by state agencies with respect to review of applications for competitive grants.

a. Step 1—intent to apply.

(1) The applicant agency will complete the intent to apply section of the Iowa grants database when the applicant agency identifies a competitive grant opportunity.

(2) Upon submission of the intent to apply, a notification will be sent to all state agencies.

(3) Any state agency, or the GEMS coordinator, may request a GEMS competitive grants review meeting to explore the project in greater detail, identify opportunities for collaboration and resolve possible conflicts.

(4) The applicant agency and the GEMS office will receive the agency request for a GEMS competitive grants review meeting within two working days of submission of the intent to apply notification.

(5) The GEMS review meeting will be held within 12 working days of submission of the intent to apply notification. The applicant agency will work with the GEMS office to schedule the meeting.

b. Step 2—application submitted.

(1) Upon completion of the GEMS competitive grants review process, but prior to submission of the grant application, the applicant agency will enter the grant application information in the application section of the Iowa grants database.

(2) When all necessary fields are completed, the Iowa grants database will automatically generate written confirmation of completion of the GEMS competitive grants review to the applicant agency.

(3) The applicant agency will keep a file copy of the confirmation. The applicant agency will include the written confirmation with all federal competitive grant applications pursuant to Federal Executive Order 12372.

c. Step 3—status.

(1) The applicant agency will enter the grant's status in the Iowa competitive grants database upon withdrawal of the application or notification of the receipt or denial of the grant.

(2) The GEMS office and the legislative services agency will be notified of the final grant status.

These rules are intended to implement Iowa Code sections 8.9 and 8.10.

ARC 7119C

MANAGEMENT DEPARTMENT[541]

Notice of Intended Action

Proposing rulemaking related to DAS customer council and providing an opportunity for public comment

The Department of Management hereby proposes to rescind Chapter 12, "DAS Customer Council," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 8.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 8.6.

Purpose and Summary

In the proposed Chapter 12, the Department of Administrative Services (DAS) Customer Council provides oversight for fees paid by government entities when DAS is the sole provider of the service.

MANAGEMENT DEPARTMENT[541](cont'd)

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on December 6, 2023. Comments should be directed to:

Gloria Van Rees
Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Email: gloria.vanrees@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

December 6, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa
December 8, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa

Persons who wish to make oral comments at the public hearings may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearings and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 541—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
DAS CUSTOMER COUNCIL

MANAGEMENT DEPARTMENT[541](cont'd)

541—12.1(8) Definitions.

“DAS” means the department of administrative services created by Iowa Code chapter 8A.

“DAS customer council” means a group responsible for overseeing operations with regard to a service funded by fees paid by a governmental entity or subdivision receiving the service when the department and DAS have determined that DAS will be the sole provider of that service.

“Department” or “DOM” means the department of management created by Iowa Code chapter 8.

“Economies of scale” means mass purchasing of goods or services, which results in lower average costs.

“Leadership function” means a service provided by the department and funded by a general appropriation. Leadership functions typically relate to development of policy and standards and are appropriate when standardization is necessary and the ultimate customer is the taxpayer.

“Marketplace service” means a service that the department is authorized to provide but that governmental entities may provide on their own or obtain from another provider of the service.

“Quorum” means the presence of no less than a simple majority (50 percent plus 1) of the members eligible to vote.

“Utility service” means a service funded by fees paid by the governmental entity receiving the service and for which DAS is the sole provider of the service.

541—12.2(8) Purpose. The purpose of this chapter is the same as Iowa Code section 8.6(15) “c.”

541—12.3(8) Utility determination. Services for which the department has determined that DAS will be the sole provider are designated “utilities” in Iowa state government. Customers may choose the amount of service they purchase, but should buy from the single source. Utilities are those services for which a monopoly structure makes sense due to economies of scale. The process for determining whether DAS will be the sole provider of a service will include consideration of economic factors, input from the DAS customer council and input from upper levels of the executive branch.

541—12.4(8) DAS customer council established. In order to ensure that DAS utilities provide effective, efficient, and high-quality services that benefit governmental entities and the citizens they serve, this chapter establishes a DAS customer council for services identified as utilities.

541—12.5(8) DAS customer council membership. DAS customer council membership will consist of the chairperson and vice chairperson, the Governor’s cabinet state agency directors, a judicial branch representative overseeing DAS services provided to the judicial branch, and two legislative branch representatives overseeing DAS services provided to the legislative branch.

12.5(1) Executive branch agency representation. The DAS customer council will include directors from the governor’s cabinet-level agencies and two noncabinet-level agencies.

12.5(2) Legislative and judicial branch representation. If the service to be provided may also be provided to the judicial branch and legislative branch, the provisions of Iowa Code section 8.6(15) “c”(2) apply.

541—12.6(8) Organization of DAS customer council. The operations of the DAS customer council will be governed by a set of bylaws as adopted by the DAS customer council. Bylaws will address the following issues.

12.6(1) Member participation. Each member is expected to attend and actively participate in meetings. Participation will include requesting input and support from the group each member represents.

a. Substitutes for members and alternates absent from meetings will be allowed; however, members may attend by telephone or other electronic means approved by the DAS customer council.

b. Upon the approval of the DAS customer council, an alternate member may be selected by an agency or group that provides a representative to the DAS customer council to participate in DAS customer council meetings and vote in place of the representative when the representative is unable to participate.

MANAGEMENT DEPARTMENT[541](cont'd)

12.6(2) Voting. A quorum is necessary for a DAS customer council vote.

a. Eligible members may vote on all issues brought before the group for a vote. Members may be present to vote during a meeting in person, by telephone or other electronic means approved by the DAS customer council.

b. Each member, other than the chairperson, vice chairperson and ex officio members, has one vote. Designated alternates may only vote in the absence of the representative from the same organization. A simple majority of the members voting will determine the outcome of the issue being voted upon.

c. DAS customer council bylaws may be amended by a simple majority vote of all members.

12.6(3) Officers. The officers of the DAS customer council will be the chairperson and vice chairperson. The director of the department of management will serve as chairperson, and the director of the department of administrative services will serve as vice chairperson. The chairperson and vice chairperson cannot be voting members.

12.6(4) Duties of officers.

a. The chairperson will preside at all meetings of the DAS customer council.

b. The vice chairperson will assist the chairperson in the discharge of the chairperson's duties as requested and, in the absence or inability of the chairperson to act, will perform the chairperson's duties.

12.6(5) Committees.

a. The chairperson may authorize or dissolve committees as necessary to meet the needs of the DAS customer council.

b. Members of the DAS customer council and individuals who are not members of the DAS customer council may be appointed by the chairperson to serve on committees.

c. Committees will provide feedback to the chairperson and the DAS customer council at the council's request.

d. Committees will meet, discuss, study and resolve assigned issues as needed.

12.6(6) Administration. DAS will assist the department by providing staff support to assist the chairperson with the following administrative functions:

a. Keeping the official current and complete books and records of the decisions, members, actions and obligations of the DAS customer council;

b. Coordinating meeting notices and locations and keeping a record of names and addresses, including email addresses, of the members of the DAS customer council; and

c. Taking notes at the meetings and producing minutes that will be distributed to all members.

12.6(7) Open records. DAS customer council books and records are subject to the open records law as specified in Iowa Code chapter 22.

12.6(8) Meetings. DAS customer council meetings are subject to the open meetings law as specified in Iowa Code chapter 21. The DAS customer council is responsible for the following:

a. Determining the frequency and time of council meetings.

b. Soliciting agenda items from the members in advance of an upcoming meeting.

c. Sending electronic notice of meetings, including date, time and location of the meeting, at least one week prior to the meeting date.

d. Providing an agenda, including those items requiring action, at least two days prior to the meeting. The agenda should also include any information necessary for discussion at the upcoming meeting.

e. Conducting meetings using the most recent version of Robert's Rules of Order, Revised.

541—12.7(8) Powers and duties of DAS customer council.

12.7(1) Approval of business plans. The DAS customer council, in accordance with Iowa Code section 8.6(15) "c"(1)(b)(i), reviews and recommends business plans. Business plans will include levels of service, service options, investment plans, and other information.

12.7(2) Complaint resolution. The DAS customer council will approve the internal procedure for resolution of complaints in accordance with Iowa Code section 8.6(15) "c"(1)(b)(ii). The procedure will include, at a minimum, the following provisions:

MANAGEMENT DEPARTMENT[541](cont'd)

- a. A definition of “complaint,” which will convey that this resolution process does not take the place of any other formal complaint, grievance or appeal process necessary by statute or rule.
- b. Receipt of complaints.
- c. Standards for prompt complaint resolution.
- d. Provisions to aggregate, analyze and communicate issues and outcomes in a manner that contributes to overall organizational improvement.
- e. Identification of the chairperson and vice chairperson’s decision as the final step in the process.

12.7(3) Rate setting. A majority of all voting council members will approve the rate methodology and the resulting rates for the services that the DAS customer council oversees. Rates will be established no later than September 1 of the year preceding the rate change. Established rates may be amended after September 1 upon recommendation by the department in consultation with DAS and upon affirmative vote by the DAS customer council.

12.7(4) Biennial review. Every two years, the DAS customer council will review the decision made by the department that DAS be the sole provider of a service and make recommendations regarding that decision.

541—12.8(8) Customer input. The department will establish procedures to provide for the acceptance of input from affected governmental entities. Input may take various forms, such as unsolicited comments, response to structured surveys, or an annual report on service requirements.

541—12.9(8) Annual service listing. DAS will annually prepare a listing separately identifying services determined by the department and DAS to be leadership functions, marketplace services, and utilities. The listing will be completed no later than September 1 of the fiscal year preceding the proposed effective date of the change.

These rules are intended to implement Iowa Code section 8.6.

ARC 7120C

MANAGEMENT DEPARTMENT[541]

Notice of Intended Action

**Proposing rulemaking related to suspension and reinstatement of state funds
and providing an opportunity for public comment**

The Department of Management hereby proposes to rescind Chapter 13, “Suspension and Reinstatement of State Funds,” to adopt a new chapter with the same title, and to rescind Chapter 16, “Suspension and Reinstatement of State Funds,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 27A and 27B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 27A and 27B.

Purpose and Summary

The proposed Chapter 13 establishes procedures and guidelines to deny state funds to a local entity intentionally violating the provisions of Iowa Code chapter 27A and to reinstate eligibility funds when a local entity comes into compliance. The Department proposes to rescind Chapter 16 and intends to transfer applicable language to Chapter 13. The two chapters are similar, and it is more straightforward to include all sanctuary city language in a single chapter.

Fiscal Impact

MANAGEMENT DEPARTMENT[541](cont'd)

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on December 6, 2023. Comments should be directed to:

Gloria Van Rees
Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Email: gloria.vanrees@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

December 6, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa
December 8, 2023 1 to 2 p.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa

Persons who wish to make oral comments at the public hearings may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearings and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 541—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
SUSPENSION AND REINSTATEMENT OF STATE FUNDS

541—13.1(27A) Definitions. For purposes of this chapter:

MANAGEMENT DEPARTMENT[541](cont'd)

“*City*” means a municipal corporation but does not include a county, township, school district, or any special-purpose district or authority.

“*County*” means an administrative subdivision in the state governed by a locally elected board of supervisors and may be comprised of subdivisions, including cities, townships, school districts, or any special-purpose district or authority.

“*Declaratory judgment*” means a judgment issued by a district court declaring a local entity is in full compliance with Iowa Code chapter 27A or 27B.

“*Department*” means the Iowa department of management pursuant to Iowa Code chapter 8.

“*Final judicial determination*” means a district court ruling on a civil action brought by the state attorney general’s office finding a local entity to have violated the provisions of Iowa Code chapter 27A or 27B.

“*Fiscal year*” means the time period beginning on July 1 and ending the following June 30 as defined in Iowa Code section 8.36.

“*Governing body*” means the mayor and city council of a city or the board of supervisors of a county.

“*Local entity*” means the same as defined in Iowa Code section 27A.1(4) or 27B.1(1).

“*State agencies*” means any boards, commissions, or departments, as defined by Iowa Code section 7E.4, or other administrative offices or units of the executive branch of the state.

“*State funds*” means those funds held by the state that originate from revenues, fees or receipts collected by the state and distributed to local entities. Funds held by the state that are not defined as state funds include:

1. Federal funds (unless provided to the state and awarded as a grant by the state).
2. Funds paid out per gubernatorial or presidential emergency proclamation.
3. Any revenue collected and administered by the state on behalf of a local entity due to a locally imposed tax, fee or fine.
4. Any state funds for the provision of wearable body protective gear used for law enforcement purposes.
5. Payment for public protection, utilities, or goods and services.
6. Payment of settlements.
7. Setoffs as defined by Iowa Code section 8A.504.

541—13.2(27A) Denial of state funds. State funds are denied to a local entity in circumstances authorized by Iowa Code section 27A.9(2) or 27B.5(2).

13.2(1) The department will send written notification to each state agency to deny state funds. Payments will continue to be made to the local entity until the beginning of the state fiscal year that begins after the date on which a final judicial determination is made, at which time payments will be denied.

13.2(2) If the local entity receives state funds through the county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

13.2(3) State agencies will contact federal granting agencies in writing to determine how to administer federal funds when state match funds are denied. State agencies may be obligated to discontinue drawing federal funds or issue repayments as instructed by federal granting agencies.

13.2(4) Funds will continue to be denied until the court issues a declaratory judgment declaring that the local entity is in full compliance with Iowa Code chapter 27A or 27B.

541—13.3(27A) Reinstatement of eligibility to receive state funds. In circumstances authorized by Iowa Code section 27A.10(3) or 27B.6(3), the local entity’s eligibility to receive state funds is reinstated.

13.3(1) The department will send written notification to each state agency to reinstate state funds. Payments will be reinstated to the local entity beginning on the first day of the month following the date on which the declaratory judgment is issued.

MANAGEMENT DEPARTMENT[541](cont'd)

13.3(2) State agencies will contact federal partners in writing to determine how to reinstate the drawdown of federal funds when state match funds are reinstated.

These rules are intended to implement Iowa Code chapters 27A and 27B.

ITEM 2. Rescind and reserve **541—Chapter 16**.

ADVISORY NOTICE

CORRECTION TO PUBLIC HEARING INFORMATION FOR ARC 7109C

ARC 7109C, a Notice of Intended Action to amend rules 701—301.1(422), 701—301.5(422), 701—302.47(422), 701—302.80(422), and 701—307.1(422) and subrule 307.3(5) of the Iowa Department of Revenue’s administrative rules relating to retirement income exclusion, was published in the Iowa Administrative Bulletin on November 1, 2023. The Iowa Department of Revenue provides this informational notice to correct erroneously published information on the time by which to contact Kurt Konek with the Department to participate in the November 21, 2023, public hearing on **ARC 7109C** scheduled for 11 a.m. The corrected time by which to contact Kurt Konek is 8 a.m. on November 21, 2023. Kurt Konek can be contacted as follows:

Kurt Konek
 Department of Revenue
 Hoover State Office Building
 P.O. Box 10457
 Des Moines, Iowa 50306-3457
 Phone: 515.587.0440
 Email: kurt.konek@iowa.gov

ARC 7110C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rulemaking related to interstate natural gas pipelines and providing an opportunity for public comment

The Utilities Board hereby proposes to amend Chapter 12, “Interstate Natural Gas Pipelines and Underground Storage,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 476.2 and chapter 479A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 479A.

Purpose and Summary

Chapter 12 is intended to publish state and federal authorizations in regard to interstate natural gas pipelines in the Iowa Administrative Code. The Board is proposing to rescind Chapter 12 because its provisions are duplicative of language contained in Iowa Code chapter 479A. Consequently, the intended benefits of Chapter 12 can be achieved through the provisions of Iowa Code chapter 479A alone.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

UTILITIES DIVISION[199](cont'd)

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on December 12, 2023. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

Oral presentations at which persons may present their views orally or in writing will be held as follows:

December 5, 2023 10:30 a.m. to 12:30 p.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa
December 12, 2023 9 to 11 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Persons who wish to make oral comments at an oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend an oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **199—Chapter 12**.

ARC 7111C

UTILITIES DIVISION[199]**Notice of Intended Action****Proposing rulemaking related to recordkeeping and cost allocation requirements for nonutility services and providing an opportunity for public comment**

The Utilities Board hereby proposes to amend Chapter 33, “Nonutility Services—Recordkeeping and Cost Allocations,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 476.78.

Purpose and Summary

Chapter 33 is intended to provide recordkeeping and cost allocation requirements for rate-regulated utilities with nonutilities services in the Iowa Administrative Code. The Board is proposing to rescind and repromulgate Chapter 33 because its provisions contain duplicative language contained in the Iowa Code and other portions of the Iowa Administrative Code. Chapter 33 also contains unnecessary and restrictive language the Board is proposing to reduce.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 33.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on January 23, 2024. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

Oral presentations at which persons may present their views orally or in writing will be held as follows:

UTILITIES DIVISION[199](cont'd)

December 5, 2023
9 to 11 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

January 23, 2024
9 to 11 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Persons who wish to make oral comments at an oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend an oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 33 and adopt the following **new** chapter in lieu thereof:

CHAPTER 33
NONUTILITY SERVICES—RECORDKEEPING
AND COST ALLOCATIONS

199—33.1(476) Applicability. This chapter applies to all rate-regulated public utilities.

199—33.2(476) Definitions. All terms used in this chapter are defined in Iowa Code section 476.72 unless further defined in this chapter.

“Exception time reporting” means when an employee works predominantly in either utility or nonutility operations and only reports time worked in the less predominant area.

“Filing threshold” means that the summation of an electric or gas utility's revenues recorded in FERC accounts 415 and 417 equals 3 percent of a utility's operating revenues recorded in FERC account 400, or the summation of a water utility's revenues from nonutility service equals 3 percent of the utility's operating revenues. The revenues in these accounts will be as recorded in the annual FERC Form 1 for electric and combination utilities, FERC Form 2 for gas utilities, and similar National Association of Regulatory Utility Commissioners (NARUC) accounts for water, sanitary sewage, or storm water drainage service utilities.

“Fully distributed cost” means a costing approach that fully allocates all current and embedded costs to determine the revenue contribution of utility and nonutility services.

“Incidental activities” means activities that are so closely related to the provision of utility services and limited in scale that it is impracticable to identify separately the costs of such activities.

“Net book value” means the original purchase price net of depreciation.

“Nonproductive work time” means time for which an employee is paid but which is not specifically attributable either to utility or to nonutility operations.

“Positive time reporting” means when productive work time is accounted for and allocated to utility operations or nonutility operations.

“Study time reporting” means when periodic studies are done to determine the amount of productive work time being spent on utility versus nonutility operations.

“Utility operating revenues” means the dollar amounts recorded in FERC account 400, or similar NARUC account, for water, sanitary sewage, or storm water drainage service utilities.

UTILITIES DIVISION[199](cont'd)

199—33.3(476) Availability of records.

33.3(1) *Separate records.* A rate-regulated public utility receiving revenues for providing nonutility service shall keep and render to the board separate records on the nonutility service.

33.3(2) *Records to be maintained.* The records maintained for each nonutility service and made available for inspection include the following: documents depicting accounts payable and vouchers; purchase orders; time sheets; journal entries; source and supporting documents for all transactions; a description of methods used to allocate revenues, expenses, and investments between utility and nonutility operations, including supporting detail; and copies of all filings required by other state and federal agencies.

199—33.4(476) Costing methodology. Costs shall be allocated between utility and nonutility operations using fully distributed cost consistent with this rule. The utility will do the following:

33.4(1) *Cost causation for utility assets.* Identify for each asset utilized directly or indirectly, in whole or in part, in the provision of nonutility services:

- a. The type of asset;
 - b. The use of the asset;
 - c. The proportional utilization of the asset between utility operations and nonutility operations;
- and
- d. The characteristics of the asset that allow proper allocation.

33.4(2) *Cost causation for utility expenses.* Identify for each expense account wherein any expense related, directly or indirectly, to the provision of nonutility services is recorded:

- a. The function causing the expense to be incurred;
 - b. The procedure used in performing the function;
 - c. The proportional utilization of the function between utility operations and nonutility operations;
- and
- d. The characteristics of the cost that allow proper allocation.

33.4(3) *Time reporting.* Use positive time reporting whenever possible; when it is not possible, exception time reporting or study time reporting may be used. Allocate nonproductive work time between utility and nonutility operations in proportion to the allocation of productive work time.

199—33.5(476) Cost allocation manuals. Every rate-regulated public utility equaling or exceeding the filing threshold in any calendar year shall file with the board a cost allocation manual on or before September 1 of the following year; however, a letter may be filed if the utility has not changed its cost allocation manual since the last filing. In the event the utility has made only minor changes to its manual to reflect new accounts or new affiliates or has modified language, the utility may file only the pages affected together with a cover letter explaining the pages being filed.

33.5(1) *Contents of manuals.* Each cost allocation manual shall contain the following information:

- a. *Nonutility services.* A list, the location, and description of all nonutility services.
- b. *Incidental activities.* A summary of incidental activities conducted by the utility.
- c. *Resource identification.* An identification of the assets and expenses involved directly or indirectly, in whole or in part, in the provision of nonutility services as identified in subrules 33.4(1) and 33.4(2).
- d. *Allocation methodology.* A description of the cost allocation methodology, including an overview, explanation, and justification of the details provided in response to paragraphs 33.5(1) “e” through “h” below.
- e. *Allocation rationale.* A statement identifying, for each asset and expense account and subaccount identified in compliance with subrules 33.4(1) and 33.4(2), the basis for allocating costs in the account or subaccount to utility and nonutility operations, including any allocation factor used by the utility for this purpose.
- f. *Accounts and records.* A description of each account and record used by the utility for financial recordkeeping for nonutility services, including all subaccounts.

UTILITIES DIVISION[199](cont'd)

g. Allocation factors. A paragraph containing, for each allocation factor identified in compliance with paragraph 33.5(1) “e,” an explanation of how the allocation factor is calculated, a description of each study and analysis used in developing the allocation factor, and the frequency with which each allocation factor is recalculated.

h. Time reporting methods. A paragraph indicating the type of time reporting (positive, exception, or study) used for each reporting organization (e.g., executive, residential sales, and external affairs) and providing a description of how the identified type of time reporting is performed in that reporting organization.

i. Training. A description of the training programs used by the utility to implement and maintain its cost allocation process.

j. Update process. A description of the procedures used by the utility to:

- (1) Determine when an update is needed;
- (2) Develop the update; and
- (3) Provide the update to the board.

33.5(2) Annual filing and acceptance of manuals. The following procedure is used for the annual filing and acceptance of manuals.

a. Notice. At the time of the initial filing and whenever a manual is updated, each utility mails or delivers a written notice to consumer advocate, local trade associations, and customers who have notified the utility in writing of their interest in the cost allocation manual. The notice will state that an objection may be filed with the board within 60 days of the filing of the manual with the board. The utility shall promptly provide copies of the manual upon request.

b. Docketing. If the board finds that reasonable grounds exist to investigate the manual, the board will docket the filing for investigation. At the time of docketing, the board will set a procedural schedule that includes a date for an oral presentation and an opportunity to file comments. If the board finds that there is no reason to investigate, the board issues an order stating the reasons for the board’s decision within 90 days of the date of filing.

c. Acceptance of manuals. The board may accept, reject, or modify a utility’s manual. However, any board decision is for accounting purposes only and is not binding in any other proceeding.

33.5(3) Updating of manuals. All affected sections and pages of a utility’s manual are updated and filed with the board within 60 days of any of the following conditions:

- a.* A new nonutility business is commenced or acquired, or an existing nonutility business is eliminated or divested;
- b.* An affiliate relationship changes;
- c.* Operations affecting nonutility businesses change sufficiently to warrant a new allocation method; or
- d.* Accounting practices change.

33.5(4) Reporting requirements—accounting tables. Companies filing cost allocation manuals shall include in their annual reports tables showing for each account identified in compliance with subrules 33.4(1) and 33.4(2) the following: (a) the account total; (b) the amount allocated to nonutility services; (c) the amount allocated to utility services; and (d) the value of the allocation factors used to allocate costs to utility and nonutility services. Such tables are to be accompanied by a signed statement by an officer of the utility and an independent auditor certifying that, for the year covered by the report, the utility has complied with its cost allocation manual and that the data reported fairly reflect the actual operations of the utility.

199—33.6(476) Standards for costing service transfers within a regulated subsidiary or utility.

33.6(1) Nonutility service provided to regulated subsidiary or utility. The utility or its regulated subsidiary shall pay for a nonutility service provided to it by an affiliate at the price actually charged to nonaffiliates. If no such price is available, the service is priced at the lower of fully distributed cost, the price actually charged to affiliates, or the market price for comparable services.

UTILITIES DIVISION[199](cont'd)

33.6(2) *Service provided by the utility to nonutility operations.* A utility that provides utility service to a nonutility affiliate charges such affiliate the tariffed price or, if a tariffed price is not available, charges the fully distributed cost of the service.

199—33.7(476) Standards for costing asset transfers within a regulated subsidiary or utility.

33.7(1) If an asset that is a direct cost of nonutility operations becomes a cost of utility operations, the asset shall be transferred or allocated to utility operations at the lesser of net book value, the price actually charged to affiliates or nonaffiliates, or the market price of comparable assets.

33.7(2) If an asset that is a direct cost of utility operations becomes a cost of nonutility operations, the asset shall be transferred or allocated to the nonutility operations at the greater of net book value, the price actually charged to affiliates or nonaffiliates, or the market price of comparable assets.

These rules are intended to implement Iowa Code sections 476.72 through 476.83.

ARC 7112C

UTILITIES DIVISION[199]

Notice of Intended Action

**Proposing rulemaking related to nonutility service
and providing an opportunity for public comment**

The Utilities Board hereby proposes to rescind Chapter 34, “Nonutility Service,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 476.78, 476.80 and 476.81.

Purpose and Summary

Chapter 34 is intended to provide for rate-regulated utilities offering nonutility services to allow access to certain utility information when a competitor requests that information, provided certain requirements are met. The Board is proposing to rescind and repromulgate Chapter 34 because its provisions contain duplicative language contained in the Iowa Code and other portions of the Iowa Administrative Code. Chapter 34 also contains unnecessary and restrictive language the Board is proposing to reduce.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 34.

Public Comment

UTILITIES DIVISION[199](cont'd)

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on January 23, 2024. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

Oral presentations at which persons may present their views orally or in writing will be held as follows:

December 5, 2023 9 to 11 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa
January 23, 2024 9 to 11 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Persons who wish to make oral comments at an oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend an oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 34 and adopt the following **new** chapter in lieu thereof:

CHAPTER 34
NONUTILITY SERVICE

199—34.1(476) Statement of purpose. A public utility that engages in a systematic marketing effort, other than on an incidental or casual basis, to promote the availability of a nonutility service from the public utility shall allow competitors access to certain services.

199—34.2(476) Definitions.

“Engaged primarily in providing the same competitive nonutility services in the area” means that a person, on an ongoing basis, sells or leases equipment or products or offers services, accounting for at least 60 percent of the person's gross business revenue, which are functionally interchangeable with and considered similar by the public to the nonutility service provided by a public utility in the same identifiable geographic area where the public utility provides utility service.

“Systematic marketing effort, other than on an incidental or casual basis” means an effort determined by the board to be recurring, active in nature, and done on a comprehensive basis. Factors to be considered include, but are not limited to, the types and number of media used; the frequency, extent, and duration of the marketing effort; the amount of marketing expenses incurred; and whether the public utility appeared to intend to increase significantly its market share.

UTILITIES DIVISION[199](cont'd)

199—34.3(476) Charges permitted. A person meeting the definition of “engaged primarily in providing the same competitive nonutility services in the area” in rule 199—34.2(476) is permitted to use, to the same extent utilized by the public utility for its nonutility service in connection with nonutility services, the customer lists, billing and collection system, and mailing system of the public utility company engaged in a systematic marketing effort, other than on an incidental or casual basis. The person will be charged for the cost or expense incurred by the public utility in providing access to its systems and its lists, and the cost or expense will not be greater than the charge, fee, or cost imposed upon or allocated to the provision of nonutility service by the utility for the similar use of the systems.

199—34.4(476) Procedures for utilization of billing and collection system.

34.4(1) When a person meeting the definition of “engaged primarily in providing the same competitive nonutility services in the area” in rule 199—34.2(476) uses the billing and collection system of a public utility, the public utility shall promptly remit to that person all funds collected by the public utility on behalf of the person.

34.4(2) Where a customer makes a partial payment and owes both a public utility and a person(s) meeting the definition of “engaged primarily in providing the same competitive nonutility services in the area” in rule 199—34.2(476) for services or goods provided, the payment received is allocated first to the regulated utility bill plus tax, unless otherwise allocated by the customer. Any balance remaining after payment of the utility bill plus tax is allocated between the public utility for any unpaid nonutility services and any other person(s) utilizing the utility’s billing system according to the ratio of the amount billed by each unless otherwise allocated by the customer. A public utility shall not disconnect a customer’s utility service for nonpayment of a bill for nonutility services.

A person shall not use a public utility’s billing and collection system to bill and receive payments only from customers who are habitually delinquent or who have failed or refused to make payment to the person.

These rules are intended to implement Iowa Code sections 476.78, 476.80, and 476.81.

ARC 7122C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rulemaking related to the butchery innovation and revitalization program

The Economic Development Authority (IEDA) hereby amends Chapter 51, “Butchery Innovation and Revitalization Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 15.106A and 15E.370.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15E.370.

Purpose and Summary

IEDA administers the Butchery Innovation and Revitalization Program pursuant to Iowa Code section 15E.370. The program was created in 2021. The program received an appropriation of \$1 million for fiscal year 2024.

IEDA has adopted the following amendments:

- Remove portions of the rules that repeat statutory language, including statutory language that was amended by 2023 Iowa Acts, House File 185. The legislation changes an eligibility requirement to allow businesses with up to 75 employees to receive grants through the program. Previously, businesses with up to 50 employees were eligible.
- Clarify which project costs are eligible and ineligible for reimbursement with grant funds awarded through the program.
- Make grant recipients ineligible to receive additional grants from the program during the three fiscal years following approval of the initial grant and require that recipients fully satisfy any prior agreements before applying for additional grants.
- Replace language that requires the IEDA Board to act on all applications with language that would require the Board to act only to approve funding, consistent with other IEDA programs that require Board approval.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 23, 2023, as **ARC 7066C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on October 20, 2023.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on December 20, 2023.

The following rulemaking action is adopted:

ITEM 1. Rescind the definitions of “Federally inspected small-scale meat processing business,” “Licensed custom locker,” “Mobile slaughter unit” and “State-inspected small-scale meat processing business” in rule **261—51.2(15E)**.

ITEM 2. Rescind rule 261—51.3(15E) and adopt the following **new** rule in lieu thereof:

261—51.3(15E) Eligibility.

51.3(1) Eligible businesses. To be eligible for a grant under the program, an applicant shall meet all of the eligibility requirements in Iowa Code section 15E.370(4) as amended by 2023 Iowa Acts, House File 185, in addition to all of the following requirements:

- a. The business must be incorporated or organized in Iowa or authorized to do business in Iowa.
- b. The business must be an establishment that holds a current license from the department in accordance with the requirements of Iowa Code chapter 189A or is actively working with the department to obtain a license. Factors the authority may consider in determining whether a business is actively working with the department to obtain a license include, but are not limited to, the number and frequency of contacts the business has had with the department, whether the business has submitted an application for inspection to the department or FSIS, and whether the department or FSIS has conducted a site visit at the business.
- c. The applicant must have an assessment of the applicant's proposed investment completed by CIRAS prior to submission of an application.

51.3(2) Regulatory enforcement actions. For the purposes of determining whether a business is ineligible for the program because the business has been subject to any regulatory enforcement action in the last five years pursuant to Iowa Code section 15E.370(4) “b,” regulatory enforcement actions include, but are not limited to, an administrative order, consent order or similar formal order issued by an applicable enforcement agency or an involuntary withdrawal of a state grant of inspection or federal grant of inspection.

51.3(3) Eligible projects. The applicant must propose an eligible project as described in Iowa Code section 15E.370(3).

- a. For purposes of this subrule, a state-inspected small-scale meat processing business is an establishment that has been issued a state grant of inspection and meets the eligible business criteria in subrule 51.3(1).
- b. For purposes of this subrule, a federally inspected small-scale meat processing business is an establishment that has been issued a federal grant of inspection and meets eligible business criteria in subrule 51.3(1).
- c. For purposes of this subrule, a licensed custom locker is an establishment that slaughters or prepares livestock exclusively for use by the owners of the livestock, members of their household, and their nonpaying guests and employees, that is periodically inspected by the department, and that meets the eligible business criteria in subrule 51.3(1).
- d. For purposes of this subrule, a mobile slaughter unit is a self-contained slaughter establishment that can travel from site to site; that operates in compliance with applicable laws, regulations, and the

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

most current mobile slaughter unit compliance guide issued by FSIS; and that meets the eligible business criteria in subrule 51.3(1).

51.3(4) Eligible and ineligible project costs.

a. Eligible costs include, but are not limited to, land acquisition, site preparation, building acquisition, building construction, building remodeling, lease payments, machinery and equipment, and computer hardware or software associated with new machinery and equipment.

b. Ineligible costs include, but are not limited to, ongoing training costs, operational costs, and costs incurred for facilities located outside the state of Iowa. Training costs specific to new investment in machinery and equipment may be considered eligible in the discretion of the authority.

51.3(5) Matching support required. The applicant shall demonstrate the ability to provide matching financial support for the project on a one-to-one basis in the form of cash. The matching financial support must be obtained from private sources.

51.3(6) Receipt of multiple grants. An applicant that has previously received a grant from the program shall not be eligible to apply for additional grants from the program during the three state fiscal years following approval of the previous grant. For example, an applicant that was approved for a grant on February 16, 2023 (fiscal year 2023), would be eligible to apply for an additional grant on or after July 1, 2026 (fiscal year 2027). An applicant that has previously received a grant from the program shall not be eligible to apply for additional grants from the program until any prior program agreements have been satisfied.

ITEM 3. Amend subrule 51.4(4) as follows:

51.4(4) A scoring committee will consider, evaluate, and recommend applications for financial assistance under the program. The committee will review applications for financial assistance and score the applications according to the criteria described in subrule 51.5(2). ~~Applications deemed to meet the minimum scoring criteria will be submitted to the board for a final funding decision.~~

ITEM 4. Rescind subrule 51.4(5) and adopt the following new subrule in lieu thereof:

51.4(5) Applications that are recommended for funding by the committee will be forwarded to the board for final approval.

ITEM 5. Amend paragraph **51.5(2)“e”** as follows:

e. The financial need of the applicant: 10 points. Applicants that received a business improvement grant from the department for expenses incurred between March 1, 2020, and December 1, 2020, or a previous ~~grant financial assistance from the program authority~~ will receive fewer points.

ITEM 6. Amend **261—Chapter 51**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 15E.370 as amended by 2023 Iowa Acts, House File 185.

[Filed 10/20/23, effective 12/20/23]

[Published 11/15/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/15/23.

ARC 7121C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rulemaking related to physician assistants

The Director of the Workforce Development Department hereby amends Chapter 24, “Claims and Benefits,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 96.11.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 90A and 96 as amended by 2022 Iowa Acts, House File 803.

Purpose and Summary

This rulemaking aligns with the changes implemented in 2022 Iowa Acts, House File 803. In particular, the amendments allow claimants to utilize advice from a physician assistant in addition to a physician. A public hearing was held on August 29, 2023, for the Regulatory Analysis for this chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on September 20, 2023, as **ARC 7071C**. A public hearing was held on August 29, 2023, for the Regulatory Analysis for this chapter. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Director of the Department on October 25, 2023.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on December 20, 2023.

The following rulemaking action is adopted:

ITEM 1. Amend subrule 24.23(6) as follows:

24.23(6) If an individual has a medical report on file submitted by a physician or a physician assistant, stating such individual is not presently able to work.

ITEM 2. Amend subrule 24.25(35) as follows:

24.25(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

a. Obtain the advice of a licensed and practicing physician or physician assistant;

b. Obtain certification of release for work from a licensed and practicing physician or physician assistant;

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

- c. Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician or physician assistant; or
- d. No change.

ITEM 3. Amend paragraph **24.26(6)“a”** as follows:

a. *Nonemployment related separation.* The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician or physician assistant. Upon recovery, when recovery was certified by a licensed and practicing physician or physician assistant, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

ITEM 4. Amend subrule 24.26(9) as follows:

24.26(9) The claimant left employment upon the advice of a licensed and practicing physician or physician assistant for the sole purpose of taking a family member to a place having a different climate and subsequently returned to the claimant's regular employer and offered to perform services, but the claimant's regular or comparable work was not available. However, during the time the claimant was at a different climate the claimant shall be deemed to be unavailable for work notwithstanding that during the absence the claimant secured temporary employment. (Family is defined as: wife, husband, children, parents, grandparents, grandchildren, foster children, brothers, brothers-in-law, sisters, sisters-in-law, aunts, uncles or corresponding relatives of the classified employee's spouse or other relatives of the classified employee or spouse residing in the classified employee's immediate household.)

[Filed 10/25/23, effective 12/20/23]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/15/23.